

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION

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RALPH WILSON LINGO,	)	DEBRA P. HACKETT, CLK
	)	U.S. DISTRICT COURT
Petitioner,	)	MIDDLE DISTRICT ALA
	)	
vs.	)	CIVIL ACTION NO.
	)	1:06-CV-703-MHT
	)	
WILLIE R. COLLINS, et al.,	)	
	)	
Respondents.	)	

**ANSWER**

Come the Respondents, by and through the Attorney General for the State of Alabama and, in response to this Court's order to show cause why Ralph Wilson Lingo's petition for a writ of habeas corpus should not be granted, state that Lingo's claims are procedurally barred and/or they lack merit; accordingly, the petition should be denied on these bases. In support of this position, Respondents submit the following.

**A. Procedural History**

On September 5, 2003, the Houston County Grand Jury returned an indictment charging Lingo with intimidating a witness, in violation of Section 13A-10-123 of the Code of Alabama. *Exhibit A, pp. 7-8* On November 3, 2004,

Lingo's trial began in the Houston County Circuit Court, and on November 4, 2004, the jury returned with a verdict of guilty to the charge of intimidating a witness. *Exhibit A, p. 4* On December 9, 2004, the State offered evidence that Lingo had one prior felony conviction for receiving stolen property in the second degree; therefore, the judge sentenced Lingo under the Alabama Habitual Felony Offender Act [Ala. Code §13A-5-9(a)(1)] to twenty years' imprisonment. *Id.*

On appeal to the Alabama Court of Criminal Appeals, Lingo argued the following: 1) "Whether the trial court erred in denying to give a jury instruction on the lessor (sic) included offenses of criminal coercion and tampering with a witness"; 2) "Whether there was insufficient evidence to warrant a motion for judgment of acquittal (sic) of intimidating a witness"; and, 3) "Whether trial counsel's assistance at trial was ineffective". *Exhibits B and C* On June 10, 2005, the appellate court affirmed Lingo's conviction in an unpublished memorandum, and subsequently overruled his application for rehearing. *Exhibits D and E* The Supreme Court of Alabama denied Lingo's petition for a writ of certiorari on August 12, 2005. *Exhibit F*

On August 9, 2006, Lingo filed the instant federal habeas petition, pursuant to 28 U.S.C. §2254.

### **B. Statute of Limitation**

Lingo's petition does not appear to be barred by the one-year statute of limitation in 28 U.S.C. §2244(d). Lingo's conviction was affirmed by the Alabama Court of Criminal Appeals on June 10, 2005; the Supreme Court of Alabama denied his petition for a writ of certiorari on August 12, 2005;<sup>1</sup> and, Lingo filed this federal habeas petition on August 9, 2006, within one year after his conviction became final on direct review.

### **C. Lingo's Federal Habeas Claims**

Lingo presents the following claims in his federal habeas petition:

1. His arrest was illegal and the warrant pursuant to which he was arrested was illegal because he was arrested in Henry County by a deputy from Houston County;
2. His home was illegally searched and his property illegally seized because the warrant was issued in 2002 but served in 2004, and the officer executing the search warrant was from Houston County posing as a deputy from Henry County;
3. He was denied effective assistance of counsel because his attorney: failed to visit him in order to prepare a defense; failed to challenge the legality of the search of his home based on the officer acting outside his jurisdiction ("work to get

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<sup>1</sup> Lingo did not file a petition for a writ of certiorari in the United States Supreme Court but had until November 10, 2005, to do so. S. Ct. R. 13.1

the illegal search thrown out”); failed to argue the illegality of the search warrant; failed to challenge the fact that “he was kept in Dothan City Jail for 5 days without a first appearance”; prevented him from calling her by placing a “block” on her telephone; refused to subpoena witnesses for his defense; allowed him to be questioned by police “over 10 times” in her absence; encouraged him to plead guilty to a charge of which he was not guilty, stating that she “could get [him] a ‘good deal’”; and, refused to file a motion to suppress evidence after he asked her to; and,

4. He should have been charged with harassment of a state witness as opposed to intimidating a witness. Lingo’s petition pp. 6-11.



### **D. Exhaustion and Procedural Default**

Most of Lingo's federal habeas claims are procedurally defaulted. More specifically, the claims were not raised at trial, on direct appeal, or in a state post-conviction petition. Furthermore, Lingo no longer has an available state court remedy for pursuing these claims.

Lingo filed a direct appeal of his conviction in state court, but the claims he raises in this federal habeas petition were not raised on appeal. Admittedly, he did raise an ineffective assistance of counsel claim on direct appeal; however, all of the instances of counsel error that he alleges in this federal habeas petition were not raised at that time. *Exhibit B, pp. 30-36* Also, Lingo did not file a post-conviction petition raising any of the claims he raises in this federal habeas petition. He had until August 12, 2006, one year from the date of the issuance of the certificate of judgment on direct appeal, to do so. See Ala. R. Crim. P. 32.2(c)<sup>2</sup>

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<sup>2</sup> “[T]he court shall not entertain any petition for relief from a conviction or sentence on the grounds specified in Rule 32.1(a) and (f) unless the petition is filed: (1) In the case of a conviction appealed to the Court of Criminal Appeals, within one (1) year after the issuance of the certificate of judgment by the Court of Criminal Appeals under Rule 41, Ala. R. App. P..”

Because the one year deadline for filing a Rule 32 petition has passed, Lingo is now barred from raising these claims in a state post-conviction petition.<sup>3</sup> See Snowden v. Singletary, 135 F.3d 732, 737 (11th Cir. 1998)(“Federal courts may apply state rules about procedural bars to conclude that further attempts at exhaustion would be futile.” ), *reversed and remanded on other grounds*. Under these circumstances, therefore, Lingo’s federal habeas claims, with the exception of two instances of ineffective assistance of counsel which are discussed below, are procedurally defaulted. Id.; see also Henderson v. Campbell, 353 F.3d 880, 891(11th Cir. 2003)(“Since Henderson failed to properly exhaust these claims in the state courts, and now is undeniably barred by firmly established and consistently applied state procedural rules from raising them, the claims are procedurally defaulted....”).

Regarding federal habeas review of procedurally defaulted claims, the Eleventh Circuit Court of Appeals reiterates:

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<sup>3</sup> Because none of Lingo’s claims appear to be jurisdictional, they would be subject to the statute of limitation. See Sumlin v. State, 710 So. 2d 940, 941-42 (Ala. Crim. App. 1998)( nonjurisdictional challenge to validity of arrest/arrest warrant subject to Ala. R. Crim. P. 32.2(c) statute of limitation); Montanez v. State, 592 So. 2d 650, 651 (Ala. Crim. App. 1991)(claim of illegal search and seizure barred by Rule 32.2(c) statute of limitation); Cogman v. State, 852 So. 2d 191, 192 (Ala. Crim. App. 2002)(ineffective assistance of counsel is nonjurisdictional claim subject to Rule 32.2(c) statute of limitation); Bass v. State 810 So. 2d 802, 803-4 (Ala. Crim. App. 2001)(sufficiency of evidence is nonjurisdictional and subject to Rule 32.2 grounds of preclusion).

Procedural default will be excused only in two narrow circumstances. First, a petitioner may obtain federal review of a procedurally defaulted claim if he can show both "cause" for the default and actual "prejudice" resulting from the default. See Murray v. Carrier, 477 U.S. 478, 485, 106 S.Ct. 2639, 2644, 91 L.Ed.2d 397 (1986); [Wainwright v. Sykes, 433 U.S. [72], 87, 97 S.Ct. [2497], 2506 [1977]]. "To establish 'cause' for procedural default, a petitioner must demonstrate that some objective factor external to the defense impeded the effort to raise the claim properly in the state court." Wright v. Hopper, 169 F.3d 695, 703 (11th Cir.1999). To establish "prejudice," a petitioner must show that there is at least a reasonable probability that the result of the proceeding would have been different. Id.; Crawford v. Head, 311 F.3d 1288, 1327-28 (11th Cir.2002). Second, a federal court may also grant a habeas petition on a procedurally defaulted claim, without a showing of cause or prejudice, to correct a fundamental miscarriage of justice. Murray, 477 U.S. at 495-96, 106 S.Ct. at 2678. A "fundamental miscarriage of justice" occurs in an extraordinary case, where a constitutional violation has resulted in the conviction of someone who is actually innocent. Id.

Henderson, 353 F.3d at 891-92.

Based on Henderson, therefore, this Court may consider Lingo's procedurally defaulted claims on the merits only if Lingo is able to show either "cause" and "actual prejudice" or "a fundamental miscarriage of justice". Lingo has not pleaded either "excuse" for his procedural default in his federal habeas petition; accordingly, the Court should deny him relief on these claims on this basis.

### **E. Merits of Lingo's Non-Defaulted Claim(s)**

*Trial counsel was ineffective for failing to challenge the illegality of the search warrant and failing to file a motion to suppress.*

Lingo contends that his counsel was ineffective because, among other errors<sup>4</sup>, he failed to file a motion to suppress and failed to challenge the illegal search of his home.<sup>5</sup> Specifically, he states that his counsel was ineffective because she "would not raise the issue of the illegality of the search warrant" and "should of filed a suppression of evidence motion and refused". See Lingo's petition pp. 9 and 17. In a pro se motion for new trial, Lingo alleged generally "I asked my attorney to bring up the search warrant during trial. She refused. The search warrant was very critical to my trial." *Exhibit A, p. 196* The trial court summarily denied the motion. *Exhibit A, p. 6* Lingo's appellate counsel did not elaborate on this claim on appeal<sup>6</sup>, but merely reiterated what Lingo had asserted in his pro se

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<sup>4</sup> Because the other instances of alleged counsel error that Lingo alleges in this federal habeas petition were not properly raised at trial, *Exhibit A, pp. 195-201*, or on direct appeal, *Exhibit B, pp. 30-37*, they are procedurally defaulted. Footman v. Singletary, 978 F.2d 1207, 1211 (11th Cir.1992) ("[A] habeas petitioner may not present instances of ineffective assistance of counsel in his federal petition that the state court has not evaluated previously.").

<sup>5</sup> It is not clear whether Lingo intended these to be two separate claims (he mentions them separately in his petition); nevertheless, Respondents will address them as two separate claims. See Lingo's federal habeas petition, p. 18.

<sup>6</sup> Counsel does not mention Lingo's federal habeas allegation that counsel failed to file a motion to suppress. If this Court construes this as being a separate claim, because it was not properly raised by Lingo on appeal in state court, it too is procedurally defaulted in this federal habeas proceeding. See Footman v. Singletary, 978 F.2d at 1211.

motion for new trial. *Exhibit B, pp. 30-31* Consequently, the Alabama Court of Criminal Appeals, although not specifically addressing these instances of alleged counsel error, held that Lingo had failed to satisfy his burden of proving that his counsel's performance was deficient and that this deficient performance prejudiced his case, under Strickland v. Washington, 466 U. S. 668 (1984). *Exhibit D, p. 10* Therefore, because these claims were adjudicated on the merits in state court, and decided adversely to Lingo, this Court should deny Lingo relief on these claims.

The enactment of the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"), brought new constraints on the federal habeas courts' power to grant a state prisoner relief on a claim that has been adjudicated on the merits in state court. Specifically, "a federal court may not grant relief unless the state court's adjudication of the claim resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States." 28 U.S.C. § 2254(d)(1); see also Brown v. Payton, 544 U. S. 133, 140-41 (2005); Diaz v. Sec'y of the Dept. of Corr., 402 F. 3d 1136, 1141 (11th Cir. 2005) (recognizing that, after enactment of the AEDPA, review of the state courts' decision is limited).

This case is unquestionably governed by Strickland v. Washington, 466 U. S. 668 (1984). And the State appellate court analyzed Lingo's ineffective assistance of counsel claim under the standard announced in Strickland. *Exhibit D*,

*p. 10* Also, Lingo has provided no federal cases in which the facts are materially indistinguishable from his facts, but in which the federal court arrived at an opposite conclusion from that reached by the state appellate court. Accordingly, Lingo is not entitled to relief under the “contrary to” inquiry. See Williams v. Taylor, 529 U.S. 362, 390 (2000); Diaz, 402 F. 3d at 1141 (refusing to “grant Diaz’s habeas petition unless the determination of the Florida Supreme Court was either contrary to, or an unreasonable application of, Strickland . . . , which governs Diaz’s claim of ineffective assistance of appellate counsel”).

Likewise, the state court’s application of Strickland was not unreasonable. “[A] state-court decision can involve an ‘unreasonable application’ of clearly established precedent in two ways.” Diaz, 402 F. 3d at 1141. First, a state court decision unreasonably applies Supreme Court precedent when it identifies the correct governing legal rule, but unreasonably applies it to the facts of the case. Id. An unreasonable application also occurs when the state court “either unreasonably extends a legal principle . . . to a new context where it should not apply or unreasonably refuses to extend that principle to a new context where it should apply.” Id. The prisoner does not carry his burden to establish an “unreasonable application” to prove that, “in its independent judgment, the state-court decision applied Strickland incorrectly.” Bell v. Cone, 535 U.S. 685, 699 (2002).

Under Strickland, to establish a claim of ineffective assistance of counsel, first, a convicted defendant must show that his counsel's performance was deficient. That is, his counsel's representation must fall "below an objective standard of reasonableness." Strickland, 466 U.S. at 687. Second, he must show that his counsel's deficient performance prejudiced his case. Id. Under this factor, a defendant must demonstrate "that counsel's errors were so serious as to deprive [him] of a fair trial[,] such that "they actually had an adverse effect on the defense." Id. at 687, 693.

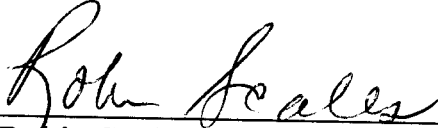
As the state appellate court correctly concluded, Lingo failed to show that his trial counsel's failure to challenge the search of his home and to file a motion to suppress was objectively unreasonable. Lingo also failed to establish that he was prejudiced by counsel's failure to challenge the search of his home and to file a motion to suppress. Specifically, he failed to show that "there is a reasonable probability that, but for counsel's [failure to challenge the search of his home and to file a motion to suppress], the result of the proceeding would have been different." Strickland, 466 U.S. at 694. Accordingly, the state courts' determination that Lingo failed to prove his trial counsel acted ineffectively was not contrary to, nor did it involve an unreasonable application of, Strickland. Lingo, therefore, is not entitled to federal habeas relief on these claims.

**F. Exhibits**

- A - Record and transcript of Lingo's state court prosecution CC 03-599 (2 vols.);
- B - Lingo's brief on direct appeal, CR 04-0602;
- C - State's brief on direct appeal;
- D - Alabama Court of Criminal Appeals memorandum opinion affirming Lingo's conviction;
- E - Lingo's brief on rehearing and the appellate court's denial; and,
- F - Lingo's petition and brief on writ of certiorari to the Alabama Supreme Court and the court's denial.

Respectfully submitted,

Troy King, ASB #KIN047  
*Attorney General*  
By-

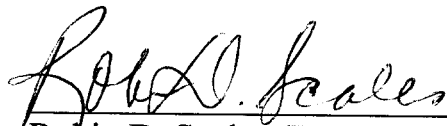
  
Robin Scales (BLE002)  
*Assistant Attorney General*



### **CERTIFICATE OF SERVICE**

I hereby certify that on this 15th day of September, 2006, I served a copy of the foregoing (including Exhibits) to Lingo, by placing the same in the United States mail, first class, postage prepaid and addressed as follows:

Ralph Wilson Lingo  
Autauga County Metro Jail  
136 North Court Street  
Prattville, Al 36067

A handwritten signature in cursive script, reading "Robin D. Scales", written over a horizontal line.

Robin D. Scales (BLE002)  
*Assistant Attorney General*  
Office of the Attorney General  
Alabama State House  
11 South Union  
Montgomery, AL 36130-0152  
Telephone: (334) 242-7300  
Fax: (334) 242-2848  
E-Mail: [rscales@ago.state.al.us](mailto:rscales@ago.state.al.us)

176878/98595-001

COURT OF CRIMINAL APPEALS NO. CR 04-0602

**APPEAL TO ALABAMA COURT OF CRIMINAL APPEALS**

**FROM**

**CIRCUIT COURT OF** HOUSTON **COUNTY, ALABAMA**

**CIRCUIT COURT NO.** CC-2003-599 **Volume I**

**CIRCUIT JUDGE** Jerry White

**Type of Conviction / Order Appealed From:** Intimidating a Witness

**Sentence Imposed:** 20 years, \$10,000.00 Fine \$1,000.00 Victim Compensation and Cost

**Defendant Indigent:** ☒ **YES** ☐ **NO**

Ralph Lingo

Jon Patrick Amason 334-793-9009  
(Appellant's Attorney) (Telephone No.)

**NAME OF APPELLANT**

401 N. Foster Street  
(Address)

Dothan Alabama 36301  
(City) (State) (Zip Code)

**V.**

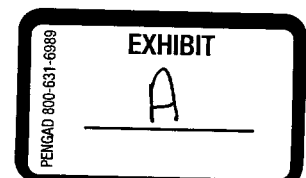
STATE OF ALABAMA

(State represented by Attorney General)

**NAME OF APPELLEE**

**NOTE:** If municipal appeal, indicate above, and enter  
name and address of municipal attorney below.

(For Court of Criminal Appeals Use Only)



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CR0372 ALABAMA JUDICIAL INFORMATION SYSTEM CASE: CC 2003 000599.00  
 OPER: PAS CASE ACTION SUMMARY  
 CRIMINAL  
 RUN DATE: 09/24/2003  
 THE CIRCUIT COURT OF HOUSTON JUDGE: JMW

DATE OF ALABAMA VS LINDO RALPH WILSON  
 CASE: CC 2003 000599.00 Z HOUSTON COUNTY JAIL  
 DOTHAN, AL 36302 0000  
 DOB: 02/04/1962 SEX: M RACE: W HT: 6 00 WT: 350 HR: BRO EYES: GRN  
 ISN: 416969145 ALIAS NAMES:

CHARGE01: INTIMIDATING A WITNE CODE01: INTI LIT: INTIMIDATING A TYP: F #: 001  
 OFFENSE DATE: 04/24/2003 AGENCY/OFFICER: 0380000 LUKER

DATE WAR/CAP ISS: DATE ARRESTED: 05/08/2003  
 DATE INDICTED: 09/05/2003 DATE FILED: 09/24/2003  
 DATE RELEASED: DATE HEARING:  
 BOND AMOUNT: \$200,000.00 SURETIES:

DATE 1: 10/15/2003 DESC: ARRG TIME: 0900 A  
 DATE 2: 12/08/2003 DESC: JTRL TIME: 0830 A

TRACKING NOS: DC 2003 001085 00 /

DEF/ATY: BULLARD WILLIAM T  
 P O BOX 398

TYPE: *w/d* *Jimmy Stinson (A)* TYPE:

DOTHAN AL 36302

JOE HERRING (C) 00000

PROSECUTOR: VALESKA DOUGLAS A

=====

C	CSE: DC200300108500	CHK/TICKET NO: WRO3-9274	GRAND JURY: 0000000003
C	T REPORTER:	SID NO: 0000000000	
T	STATUS: JAIL	DEMAND: Y	OPER: PAS

=====

DATE ACTIONS, JUDGEMENTS, AND NOTES

10-15-03

### WAIVER OF ARRAIGNMENT

*J. Stab, Judge*

### RECIPROCAL DISCOVERY ORDER

10-15-2003

Within 14 days of this Order, the State and Defendant will make available for inspection and copying all materials discoverable under the Alabama Rules of Criminal Procedure. In addition, the State will make any exculpatory material available to the Defense. The State will make its materials available at the District Attorney's office and the Defense will do likewise at the Defense Counsel's office.

*E. Lawson Little*  
 E. LAWSON LITTLE  
 CIRCUIT JUDGE

10-23-03

Letter From Deft.

*(above noted - See Letter in file)*

11-19-03

*Motion To Withdraw*

12-8-03

*Motion To Withdraw granted*

*Dan M. White, Judge*

12-17-03 - Tammy Stinson appointed to represent defendant. Discovery order issued on 10-15-03. No transcript exists to provide to defendant.

Dwight White  
Judge

12-18-03 refiled Tammy Stinson + DA

12-18-03 Letter requesting Recovery of all files.

12-19-2003 Motion for disclosure and notice to produce

December 23, 2003 - Motion for disclosure and to produce granted. Motion for recovery of files denied.

Dwight White  
Judge

12-23-03 refiled Tammy Stinson, deft at Paul + DA

January 20, 2004 - Motion to remove denied. Clerk to notify defendant that all future motions will be filed by his Attorney. Clerk will accept no further motions filed by defendant.

Dwight White  
Judge

1-23-04 refiled Tammy Stinson, DA + Deft at Paul

5-25-2004 Motion to return illegally seized property

Motion denied.  
Dwight White, Jr.

JUN 2 2004 N: Deft by email + DA

7-15-04 Motion for Disclosure of Criminal/Juvenile Arrest Parole and Probation Records of Prosecution Witnesses.  
Motion For Issuance of Subpoena.

7-19-04 Motion to Produce.

7-21-04 Motion For Production of Statements of Promises, Rewards, or Inducements.

8-04 File came back with no action taken.

State of Alabama Unified Judicial System	<b>CASE ACTION SUMMARY CONTINUATION</b>		Case Number <b>CC 2003-599.6</b> ID. YR. Number
Form C-7 Rev. 2/79	Style: <b>State of Alabama vs. Lingo, Ralph Wilson</b> Page Number _____ of _____ Pages		
DATE	ACTIONS, JUDGMENTS, CASE NOTES		
June 10, 2003. Petition for writ of Habeas Corpus dismissed after hearing the evidence.	<i>Wayne White Judge</i>		
<i>John</i> 6/30/03	3-11-03 - N: DA. T. Bullard, Jail. Dept.		
	Letter noted.		
	<i>Larry K. Anderson, Judge</i>		
	7-1-03 N: Dept.		
	Sept. 14, 2004 - Case cont'd by agreement. <i>Wayne White Judge</i>		
	Oct 14-04 Motion to Transport Offd. 10-14-04 Order of Transport (see file) 10/20/04 Motion for Discovery of Undisclosed Info		
	November 3, 2004 - Defendant's motion in limine granted as to any past conviction or pending charge not relevant to this indictment unless defendant chose to testify. Motion to Suppress statement of defendant denied. <i>Wayne White Judge</i>		
	November 3, 2004 - Motion for appointment of new attorney denied. <i>Wayne White Judge</i>		
	November 3, 2004. Motion for judgment of acquittal is denied. <i>Wayne White Judge</i>		



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4

JURY CONVICTION

IN THE CIRCUIT COURT OF HOUSTON COUNTY, ALABAMA

STATE OF ALABAMA

VS.

CRIMINAL DIVISION

Ralph Wilson Lingo

CASE NO. CC 2003-599

The Defendant having been indicted and arraigned upon the Indictment on a charge of Extortionate Witness, and heretofore having plead not guilty thereto the case was tried before a jury composed of Steven L. Henderson as foreperson and eleven others. The Jury having been duly empanelled, sworn and charged by the Court according to law, with the Defendant being present in open court with his attorney at each and every stage of proceedings, said jury has now on this date pursuant to their oath found the Defendant guilty of Extortionate Witness as charged in the Indictment (a lesser included offense of that charge in the Indictment).

In accordance with the verdict of the Jury, Defendant is hereby adjudged guilty of Extortionate Witness. Defendant being asked if he/she had anything to say why sentence of law should not be pronounced upon him/her, and Defendant says nothing.

IT IS THEREFORE ORDERED AND ADJUDGED BY THE COURT that the Defendant is guilty of said charge.

☒ A Sentence hearing is set for the 9<sup>th</sup> day of December, 2004 at 9:00 o'clock 4 M.

DONE, this the 4<sup>th</sup> day of November, 2004.

Orville M. White  
CIRCUIT JUDGE

SENTENCING ORDER

AS PUNISHMENT, DEFENDANT IS HEREBY FORMALLY SENTENCED:

( ) to hard labor for Houston County for a term of \_\_\_\_\_

☒ to the penitentiary of the State of Alabama for a term of 20 years. ( ) FHOA

On the 30<sup>th</sup> day after the Clerk transmits to the Department of Corrections a copy of this judgment entry and sentence, if the Department has not directed the Sheriff where the Defendant shall be taken for confinement, the Sheriff is hereby ordered to transport Defendant forthwith to the Department's receiving center at Kilby/Tutweiler (circle) and effectuate the transfer of the Defendant to the custody of the Department. In the event the Department refuses to accept the Defendant in compliance with state law, the Sheriff is ordered to secure the Defendant to the property at the Department's receiving center.

Said sentence shall run ☒ consecutive or ☐ concurrent with case number (s)

with any sentences presently being served

☐ said sentence is suspended for \_\_\_\_\_ years on the condition of good behavior and payment of all fines, costs, and restitution.

☐ The Defendant is hereby given credit for the days spent incarcerated pending trial.

Defendant is also ordered to pay:

☒ A fine of \$ 10,000.00

☒ A Victim Compensation Assessment of \$ 1,000.00

☒ All Court Costs.

☐ Restitution of \$ \_\_\_\_\_ to \_\_\_\_\_

☐ Drug Demand Reduction Act Assessment of \$1,000.00.

☐ Alabama Forensics Sciences Trust Fund \$100.00.

☐ Alabama Dept. of Forensic Sciences-Dothan Division \$ \_\_\_\_\_

☐ Investigation restitution to ☐ DPD ☐ HCSO \$ \_\_\_\_\_

#### ADDITIONAL SENTENCE PROVISION ORDERED ARE:

☐ Completion of a substance abuse program CRO

☐ The Department of Public Safety is ordered to comply with Alabama Code 13A-12-290 by suspending Defendant's drivers license for six months.

☐ Continued on same bond.

☐ Appeal bond is set at \$ \_\_\_\_\_

☐ Indigency status granted and free transcript is ordered.

#### PROBATION:

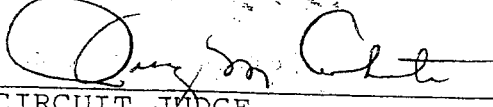
☐ Defendant applies for probation.

☐ Defendant waives application for probation.

☐ Probation hearing is set for the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ at \_\_\_\_\_

☐ Defendant to remain on same bond pending probation hearing

DONE this the 9<sup>th</sup> day of December, 2004...

  
CIRCUIT JUDGE

Date	ACTIONS, JUDGMENTS, CASE NOTES	6
1-10-04	Motion for a new trial.	
10-28-04	Motion for return of seized property. Motion to suppress evidence and controvert search warrant.	
	Nov. 18, 2004 - Motion for new trial denied	
	Motion to Suppress, etc denied	
	(12-7-04 N.T.S + DA)	
	Dwyer White	
	December 9 2004 - Dist given oral notice	
	of appeal to Alabama Court of Criminal Appeals. Dist allowed free transcript.	
	Patrick Amos appointed to represent	
	dist on appeal. Bail set \$50,000	
	Clk to notify Dist, Ct of Criminal Appeal	
	and Son Amos.	
	(1-4-05 N: DA, PA, Jail)	
	Dist mls. transcripts to record 800-1-51	
	1-5-04 PENITENTIARY TRANSCRIPT	
	MAILED TO DOC	
	1-5-04 Clerk's notice of appeal to CCA, AG, Dist, PA, CW + DA	
	1-6-04 CCA Docketing statement of CR transcript order to CCA, AG	

Grand Jury No. 038

Case No.

CC2003-599

**INDICTMENT**

The State of Alabama  
Houston County

}

CIRCUIT COURT  
TWENTIETH JUDICIAL  
JULY TERM, 2003

**COUNT 1**

The Grand Jury of said county charge that, before the finding of this indictment, RALPH WILSON LINGO, whose name is otherwise unknown to the Grand Jury, did attempt by use of a threat directed to DEBRA TICE BLACKSTONE, a witness or a person he believed would be called as a witness in an official proceeding, to corruptly influence the testimony of the said DEBRA TICE BLACKSTONE; to induce DEBRA TICE BLACKSTONE to avoid legal process summoning her to testify; or to induce DEBRA TICE BLACKSTONE to absent herself from the said official proceeding to which DEBRA TICE BLACKSTONE had been legally summoned, in violation of Section 13A-10-123 of the Code of Alabama, against the peace and dignity of the State of Alabama.

Douglas Albert Valeska  
District Attorney

THE STATE OF ALABAMA  
Houston County

Witnesses for Agency No.03-3058

THE CIRCUIT COURT  
Twentieth Judicial Circuit

DEBRA TICE BLACKSTONE, 402 EMMONS DR., DOTHAN, AL 36301  
TONY LUKER, DPD, DOTHAN, AL 36301  
TODD REGISTER, STATE FIRE MARSHALL'S OFFICE P. O. BOX 303352,  
MONTGOMERY, AL 36130

THE STATE  
vs.  
RALPH WILSON LINGO

arges: 1. INTIMIDATING A WITNESS

1281-EMR-23

#38

8

**A TRUE BILL**

Guaita Zoba  
Foreman of the Grand Jury

Presented to the presiding Judge in open court foreman of the  
Grand Jury, in the presence of 16 Grand Jurors and  
filed in open court by order of the court on this the 5<sup>th</sup>  
day of Sept, 20, 03.

Judy Byrd

CLERK

**INDICTMENT**

**NO PROSECUTOR**

Upon the arrest of Defendant let him be admitted to bail on  
giving bond in the sum of

200,000

Dollars

With security to be approved by the Sheriff.

Larry K. Anderson  
Judge Presiding

# WRIT OF ARREST

The State of Alabama  
Houston County

CIRCUIT COURT

To Any Sheriff of the State of Alabama:

An indictment having been found against

*Ralph Wilson Lingo* (No. *38*)

at the

*July*

Term, *B*

of the Circuit Court of said County

for the offense of

*Intimidating a Witness*

you are therefore commanded forthwith to arrest the said Defendant and commit him to jail unless he gives bail to answer said Indictment, and you are further directed to make return of this writ according to law.

Dated this *5<sup>th</sup>* day of *September*, *B*

*Judith Byrd* Clerk

Defendant lives at

The officer executing this writ may admit the Defendant to bail upon entering into Bond in the amount of *\$200,000* Dollars with two or more good securities approved by said officers.

*Judith Byrd* Clerk

Received in office this the \_\_\_\_\_ day of *SEP 05 2003*,

Sheriff

*Lamar Glover*

I have executed this writ by arresting the within named defendant and

☐ Taking Appearance Bond

☒ Committing Defendant to Jail

☐ Continued on Extising Bond

This the *7<sup>th</sup>* day of *September*, *2003*.

Sheriff *Lamar Glover*

Deputy Sheriff

*William Stanley*

10

of Alabama ed Judicial System Form CR-9 Rev. 3/95	<b>PLEA OF NOT GUILTY AND WAIVER OF ARRAIGNMENT</b>		Case Number CC-03-599 CC-03-1339 CC-03-1340
IN THE <u>Circuit</u> (Circuit, District, or Municipal)		COURT OF <u>Houston</u> (Name of County or Municipality)	
STATE OF ALABAMA v. <u>Ralph Lingo</u>		ALABAMA Defendant	

Comes now, the defendant in the above-styled matter, and to the offense charged enters a plea of

- ☐ Not Guilty  
☐ Not Guilty by Reason of Mental Disease or Defect  
☐ Not Guilty and Not Guilty by Reason of Mental Disease or Defect

Defendant acknowledges receipt of the copy of the charge against him/her and further waives the right to have an arraignment at which the defendant is present in person, or at which the defendant is represented by an attorney.

But, the defendant specifically and expressly reserves the right upon the filing hereof to hereafter, but before trial or before such date as may be set by the court, to interpose any defenses, objections, or motions which the defendant had the right as a matter of law or rule to interpose in this cause, prior to the filing hereof.

Defendant's date of birth is X 2-4-62 Defendant's age is X 41  
 The defendant is not eligible for consideration by the court for youthful offender status as provided by law.

Date 10-14-03  
10-14-03

X Ralph Lingo  
 Defendant  
W. Terry Bullard  
 Attorney for Defendant

This is to certify that I am the attorney for the defendant in this matter, and that I have fully explained this form and all matters set forth herein, and pertaining hereto, to the defendant. I further state to the court that I have explained to the defendant his right to be arraigned in person and his right to have me represent him at arraignment. I further certify to the court that my client hereby knowingly, voluntarily, and intelligently waives these rights after a full and complete explanation of each and every one of them to him/her by me. BOTH MYSELF AND THE DEFENDANT UNDERSTAND THAT I AM RESPONSIBLE FOR ASCERTAINING WHAT DATE, IF ANY, HAS BEEN SET BY THE COURT FOR THE MAKING OR FILING OF ANY DEFENSES, OBJECTIONS, OR MOTIONS. I FURTHER UNDERSTAND THAT I AM RESPONSIBLE FOR NOTIFYING MY CLIENT OF THE DATE HIS/HER CASE IS SET FOR TRIAL, AND THAT I HAVE ADVISED AND INFORMED HIM/HER THAT IN THE EVENT HE/SHE FAILS TO APPEAR ON THE DATE HIS/HER CASE IS SET FOR TRIAL, ALL APPROPRIATE LEGAL ACTION WILL BE TAKEN BY THE COURT AGAINST THE DEFENDANT AND HIS/HER BOND. I further certify to the court that I have advised my client that he/she is responsible for obtaining the date his/her case is set for trial in this matter and that in the event he/she fails to appear on the date his/her case is set for trial all appropriate legal action will be taken by the court against the defendant and his/her bond, and I hereby certify that the defendant knows that he/she is personally responsible for obtaining the date his/her case is set for trial and for being present in court on that date.

Date 10-14-03

I certify that I served a copy of the foregoing plea and waiver of arraignment on the Prosecutor by mailing/delivering a copy of the same to him/her on:  
10-14-03  
 Date

W. Terry Bullard  
 Attorney for Defendant Signature  
 Printed or Typed Attorney's Name  
P.O. Box 398, Dothan  
 Address

This is to certify that my attorney has explained each and every matter and right set forth in this form and I have completely and fully read and do so understand each and every matter set forth in this form. I further state to the court that I do not wish to be personally present at an arraignment in this case and that I do not want to have an attorney represent me at an arraignment and WITH FULL KNOWLEDGE OF EACH OF THESE RIGHTS, I HEREBY EXPRESSLY WAIVE SUCH RIGHTS. I further state to the court that I have been informed of the charge against me and have received a copy of the charge.

Date 10-14-03

Filed in office this date \_\_\_\_\_

X Ralph Lingo  
 Defendant Signature

Clerk

**FILED**

OCT 15 2003

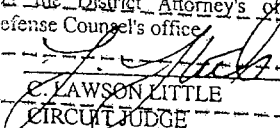
Judy Ridd  
 JUDY RYDD, CLERK



RECIPROCAL DISCOVERY ORDER

10-15, 2003

Within 14 days of this Order, the State and Defendant will make available for inspection and copying all materials discoverable under the Alabama Rules of Criminal Procedure. In addition, the State will make any exculpatory material available to the Defense. The State will make its materials available at the District Attorney's office and the Defense will do likewise at the Defense Counsel's office.

  
E. LAWSON LITTLE  
CIRCUIT JUDGE



CASE CC 2003 000599.00

This is to the court

I ask the Court to put me on there day  
and take in testimony a witness  
and take it to trial by next month  
before a grand jury trial.

I would like to know the Judge on  
my case and not at once. I don't want  
Judge Little and I don't want Judge Stinglee  
and I don't want Larry Anderson and I don't want  
Judge Jackson because he is already the  
Judge in Abbeville. He is doing one case  
there.

Ralph Light

10-21-03

FILED

OCT 23 2003

Judge Light

JUDICIAL CLERK  
HOUSTON CO., AL

noted  
on 10-28-03

10-28-03  
11-4-03  
WFB, Jaf  
Dkt

STATE OF ALABAMA,

PLAINTIFF,

VS.

RALPH WILSON LINGO,

DEFENDANT.

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

IN THE CIRCUIT COURT OF  
HOUSTON COUNTY, ALABAMA  
CASE NO.: CC-03-599 *W*

**MOTION TO WITHDRAW**

COMES NOW the undersigned attorney, W. Terry Bullard, and withdraws as attorney-in-fact for the Defendant, RALPH WILSON LINGO, and as grounds therefore states as follows:

1. That a conflict has arisen between the Defendant and the undersigned attorney.

WHEREFORE, premises considered, the undersigned prays this Honorable Court to grant him a withdrawal, as attorney, from the above styled case.

Dated this 19<sup>th</sup> day of November, 2003.

BULLARD AND BULLARD L.L.C.



W. TERRY BULLARD (BUL007)  
Attorney for Defendant  
Post Office Box 398  
Dothan, Alabama 36302  
(334) 793-5665

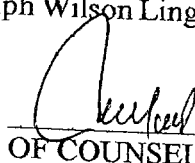
**FILED**

NOV 19 2003

*Judy B. [unclear]*  
JUDY B. [unclear]  
HOUSTON CO., AL

**CERTIFICATE OF SERVICE**

I, W. Terry Bullard, hereby certify that I have this date mailed a copy of the foregoing Motion to Withdraw to the Honorable Douglas A. Valeska, District Attorney, by placing a copy of the same in his box at the Houston County Courthouse, and Ralph Wilson Lingo, Houston County Jail by hand delivery, this the 19<sup>th</sup> day of November, 2003.

  
OF COUNSEL

12-8-03 Motion to Withdraw granted

Deny M. White, Judge

12-12-03 N:DA, Y. Bullard & Deft. by mail

On File with Judy Byrd  
(File with the Clerk of Court)

12-1-03

15

~~10-10-03~~

I Ralph Lingo:

I am broke I like to ask for  
transcript and case number

CC 2003-599.6

I will love to ask the Court to  
respond to this in the next 10  
working days

I also like to ask the court for  
motion of discovery of this case

Also motion of discovery on  
intimidating a state witness

Also want copies of all letters  
that has been filed by Terry Bullard

Ralph Lingo

~~10-10-03~~

12-1-03

CC 03-599

Case no: DC 2003 001085.00

16

On File Judy Byrd

12-1-03

(Keep on File with the Clerk of Court) ~~12-1-03~~ ~~03~~  
Court

I Ralph Wilson Lingo: case no:

Ask the court of Larry Anderson  
to give me a statement under oath.  
Court reporter present.

I will also like to ask judge White to  
give a statement under oath from  
a court reporter.

I will love to ask the court to  
respond back from this request in  
ten working days.

I am representing myself.

I would like to ask both judges  
to cooperate with the request.

Ralph Lingo  
~~12-1-03~~  
12-1-03

(File with Clerk of Court)  
Judy Byrd

17  
12-1-03  
12/1/03

I Ralph Lingo: case no: DC 2003 001085.07  
CC03-599

Ask the Court for a 72 hour  
hearing I ask for a court  
order for this. Also ask for  
a court reporter be present.

Also ask for Tony Luckner city  
investigator be present at this  
hearing

I also want a inventory list of  
all things taken from my home



Ralph Lingo

12-1-03

State of Alabama vs.

Ralph Lingo

CC2003-599

12-17-03 - Tammy Stinson appointed to represent defendant. Discovery order issued on 10-15-03. No transcript exists to provide to defendant.

12-18-03 reaf'd Tammy Stinson #DA

Dwight White  
Judge

STATE OF ALABAMA,  
PLAINTIFF,  
VS,

Ralph Lingo  
DEFENDANT,

IN THE CIRCUIT COURT OF  
HOUSTON COUNTY, ALABAMA

CASE NO CC-03-599

I ASKED FOR A MOTION OF RECOVERY OF ALL MY FILES

1. I ASKED THE COURT TO BRING, Ralph Lingo AND FORMER ATTORNEY TERRY BULLARD IN FRONT OF THE JUDGE TO TURN OVER ALL FILES OF MOTION OF RECOVERY ON MY CASES AND ANY OTHER EVIDENCE HE MIGHT HAVE OR HOLDING.

2. I ASKED THE COURT TO MAIL ME ALL DOCKET AND ANY LETTERS THAT THEY MAY HAVE IN THEIR FILES. I ASKED THE COURT FOR A COPY OF MOTION OF RECOVERY IN FULL.

DATED this 12-15-03 2003

SIGNATURE Ralph Lingo 12-15-03

FILED

DEC 18 2003

Judy Byrd  
JUDY BYRD, CLERK  
HOUSTON CO., AL



STATE OF ALABAMA  
PLAINTIFF

VS

Ralph Lingo  
DEFENDANT.

IN THE CIRCUIT COURT OF  
HOUSTON COUNTY, ALABAMA  
CASE DC 2003 00 1085, 00

I ASKED FOR A MOTION OF RECOVERY OF ALL MY FILES

1. I ASKED the court to bring Ralph Lingo AND FORMER ATTORNEY TERRY DILLARD IN FRONT OF the JUDGE to TURN OVER ALL FILES OF MOTION OF RECOVERY ON MY CASE AND ANY OTHER EVIDENCE HE might have or holding.

2. I ASKED the court to mail me ALL docket AND ANY LETTERS that they MAY HAVE in their files. I ASKED the court FOR A copy OF MOTION OF RECOVERY in Full.

**FILED**

DEC 18 2003

DATED this 12-15-2003

JUDY PADD CLERK  
HOUSTON CO. ALA

SIGNATURE. Ralph Lingo 12-15-2003

STATE OF ALABAMA,

PLAINTIFF,

VS.

RALPH LINGO,

DEFENDANT.

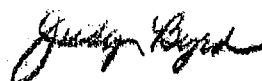
IN THE CIRCUIT COURT OF

HOUSTON COUNTY, ALABAMA

CASE NUMBER: CC-2003-599 W

**FILED**

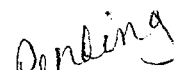
DEC 19 2003

  
 JUDY BYRD, CLERK  
 HOUSTON CO., AL

MOTION FOR DISCLOSURE  
AND  
NOTICE TO PRODUCE

COMES NOW the defendant, RALPH LINGO, in the above referenced case and moves this Honorable Court pursuant to the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution for an Order to Disclose the following materials which are in the custody and possession of the State:

1. Any and all tape recordings and stenographic transcriptions of admissions, confessions and statements of the Defendant given at any time or place to any officer of the Houston County Sheriff's Department, Alabama Bureau of Investigation (ABI) or any and all other law enforcement departments involved, the District Attorney or any representative of the District Attorney office, or to any law enforcement officer or agent;
2. Any and all tangible objects, currency, weapons, books, papers, and documents obtained from or belonging to the Defendant;
3. Any and all tangible objects, books, papers, or documents obtained from any other persons relating to the charges against the Defendant;
4. The arrest record summaries prepared by the FBI and/or the ABI which is available to the State on request for each and every one of State's witnesses;



5. The result and reports of any scientific or other test, analysis, experiments or studies made in connection with the instant case;

6. All information of whatever form, source or nature, which tends to exculpate Defendant either through an indication of his innocence or through the potential impeachment of any State witness, and all information of whatever form, source or nature which may lead to evidence which tends to exculpated the Defendant whether by indicating his innocence or impeaching the credibility of any potential State witness, and all information which may become of benefit to the Defendant in preparing or presenting the merits of his defense of innocence at trial. The request includes all facts and information of whatever form, source or nature which the District Attorney or his assistants, the Sheriff's Department, Police Department, the ABI or any of their agents has or knows about, which is or may be calculated to become of benefit to the Defendant either on the merits of the case or on the question of credibility of witnesses; and,

7. The pre-trial discovery requested in the foregoing Motion is essential to insure the Defendant his right to a fair hearing, his right to confrontation, his right to prepare a defense in his own behalf, and his right to effective assistance of counsel and due process of law guaranteed by the United States Constitution as well as those rights guaranteed by the Constitution of the State of Alabama and all other rights not herein enumerated including those rights provided by case law, statutory law, and the common law.

**WHEREFORE**, Defendant prays:

(a) That the District Attorney be ordered to produce all information described directly herein or described by implication and allow the Defendant the right to examine, inspect, and copy photograph such material and information at a specific time and place to be fixed by the Court.

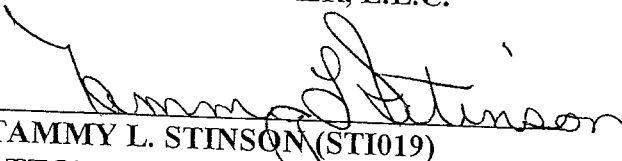
(b) That the time set for the inspection and copying of the information requested be

made available to the Defendant at a reasonable time in advance of trial.

(c) That the Court enter an Order requiring the District Attorney's office to make continuing disclosures of all matters requested herein up to and during the trial of the charges against the Defendant.

Respectfully submitted this the 19<sup>th</sup> day of December, 2003.

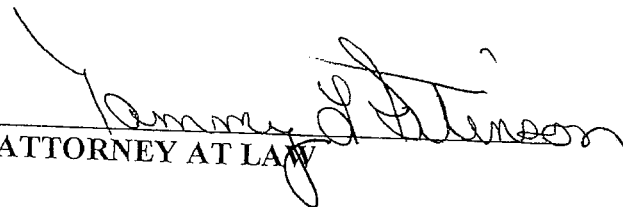
**BRANTLEY & PARKER, L.L.C.**



**TAMMY L. STINSON (STI019)  
ATTORNEY FOR DEFENDANT  
401 NORTH FOSTER STREET  
DOTHAN, ALABAMA 36303  
(334) 793-9009**

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the above and foregoing Motion upon the Honorable Douglas A. Valeska, Esquire, District Attorney, Houston County Courthouse, by placing a copy of same in his appropriate Courthouse box, on this the 19<sup>th</sup> day of December, 2003.



**ATTORNEY AT LAW**

December 23, 2003 - Motion for disclosure and  
to produce granted Motion for recovery of  
fees denied  
12-23-03 re: Sammy Stinson,  
1-11-04 204

*[Signature]*

DATE: 12-30-2003

STATE OF ALABAMA : IN THE CIRCUIT COURT OF  
PLAINTIFF : HOUSTON COUNTY, ALABAMA  
VS :  
RALPH Lingo : CASE NO: CC-03-599  
DEFENDANT.

I ASK THE COURT TWO LET ME HAVE STATEMENT.

- ① I ASK THE COURT TWO LET ME HAVE STATEMENT FROM JUAWITA TICE. WILL BE CALLED AS A WITNESS.
- ② I WONT PULL REST REPORT FROM Tony LUCKER AND DATE AND TIME.
- ③ I WONT MOTION OF DISCOVERY ON ALL OF MY CASE'S ON Tony LUCKER. THE ARSTING OFFICER.
- ④ I ALSO WONT MOTION OF DISCOVERY FROM THE FIRE MARSHAL Hous Co. STATE. AND ALSO ALL REPORT ON ALL CASE'S
- ⑤ I ASK THE STATE TWO FURNISH ME A CRIMINAL BACK GROWN ON ALL WITNESS.

STATE OF ALABAMA.

PLAINTIFF.

VS.

IN THE CIRCUIT COURT OF

HOUSTON COUNTY, ALABAMA

RAIPh WILSON Lingo :

DEFENDANT.

CASE: DC 2003 001085.00

CASE: CC-2003-599

Im NOTIFYing The COURT Im REPRESENTing mySELF.

- ① I want Copy of motion of DISCOVERY in full.
- ② I want ALL of 911. TAPES AND TRANSCRIP from CITY OF Dothan. from House No: 402 Emmons DR.
- ③ I want ALL Copy of POLICE REPORT from 402 Emmons DR
- ④ I want ALL Copy's of TAPES from DISPATCHER from LAST SIX YEARS. AND TRANSCRIPS STATE-COUNTY-CITY.
- ⑤ I want ALL WRITEN police from STATE County CITY. from ANTY REPORTS AT ALL from 402 Emmons DR Dothan CITY Limit. from LAST SIX YEARS.

DATE 12-30-2003



1/2/2004/

Dear Judge Whight

Cases number CC-2003-599. for Intimidating a  
State witness

you have appointed Tammy L Stintion two this  
cases. Judge I don't not want no Court appointed attorney  
you know as good as I know a Court appointed attorney  
will not really fight for you. this is my life were  
talking about. So I ask you not two give me  
any more Court appointed attorney. I'm asking you  
two send me a motion of discovery on this  
cases (CC 2003-599) so were I can start repairing  
my cases. I have already notified Mrs Tammy Stintion  
on this matter. I'm notifying the Court I'm representing  
myself on this cases. Mrs Tammy letter explains  
it all two me. then at no money involved in a attorney  
So I really no she won't fight for me.

Judge if you will give me a chances. I'll prove it  
two you. I really wish you just give me a chances  
two do this cases myself.

Ralph Ligo 1-2-2004 8:20 p.m.



this is also for motion of Discovery on all!

28

1/2/2004/

State of Alabama  
Plaintiff  
vs.

\* In the District Court of

\* Houston County Alabama

Defendant  
Ralph W. Gengo

\* Criminal Division

\* Case No: DC-2003-1083, 84 & 85

I ask the Court for Motion Discovery on all of  
These Cases.

I am also asking the Court for a fast speedie  
trial.

I'm also asking the Court for a list for all  
witness.

I also want a criminal back ground on all  
witness.

I also want each witnesses to give me a list of  
all Doctor they have been with in the last five years.  
in medical and any other Doctoring person's

I also want a NCIB run on all witness and criminal  
reports.

I also want a list on all witness that has been  
meride in the last ten years. all crosses also  
names and address.

this is asking also formation of Discovery on all! 29

1/2/2004/

State of Alabama  
Plaintiff  
vs.

Defendant  
Ralph W. Sengo

\* In the District Court of

\* Houston County of Alabama

\* Criminal Division

\* Cases. No: DC-2003-1083, 84 & 85

I'm also asking the Court send me all warrants from the fire marshale and all lisites

I also want the fire marshale me a Copy of every time he talk to me from the first time the Date that was and name every location. and I want a Copy on everything he has on me and my Cases, and also name each location he has arrested me at

I also want a list from Sergeant Tony Tucker from the City of Dothan. time and Date for every reason he has talked to me. and also want a Copy of motion of Discovery on anything he has on me.

I also want to see Defendant all business Records of Ralph Sengo business Repair of Mobile Home repair

this is asking also for motion of Discovery on all!

1/2/2004/

State of Alabama  
 plaintiff  
 vs.

\* In the District Court of

\* Houston County of Alabama

Defendant  
 Ralph W. Singer

\* Criminal Division

\* Cases no: DC-2003-1083, 84 & 85

I also ask the State to list each person they have interviewed

I also want the State to list each endowment that has listened to the phone tapes from Ralph Singer that was taken from him from the City of Dothan

I ask for Sergeant Tony Becker to give a full list to everybody that he has let listen to the phone tapes I want everybody names, and how long they have listened to them and where they were at and the names to everybody he has let have the tapes and also all files and contracts

and a list of anybody he has talked to about the tapes. I also ask the Court for Rights to hear all of my tapes.

STATE OF ALABAMA.

PLAINTIFF.

VS.

RALPH WILSON LINGO

DEFENDANT.

IN THE CIRCUIT COURT OF  
HOUSTON COUNTY, ALABAMA.

CASE: DC 2003 001085.00

CASE: CC-2003-599 W

I'm NOTIFYING THE COURT I'm REPRESENTING MYSELF.

- ① I want copy of motion of DISCOVERY IN FULL.
- ② I want ALL of 911. TAPES AND TRANSCRIPT FROM CITY OF DOTHAN. FROM HOUSE NO: 402 Emmons DR.
- ③ I want ALL copy of POLICE REPORT FROM 402 Emmons DR
- ④ I want ALL copies of TAPES FROM DISPATCHER FROM LAST SIX YEARS. AND TRANSCRIPTS STATE-COUNTY-CITY.
- ⑤ I want ALL WRITTEN police FROM STATE COUNTY CITY. FROM ANTY REPORTS AT ALL FROM 402 Emmons DR DOTHAN. FROM LAST SIX YEARS.

JAN 05 2004

*Judy Byrd*  
JUDY BYRD, CLERK

DATE 12-30-2003

JAN 06 2004

JUDY BYRD, CLERK  
HOUSTON CO., AL

DATE: 12-30-2003

STATE OF ALABAMA. IN THE CIRCUIT COURT OF  
PLAINTIFF. HOUSTON COUNTY, ALABAMA  
VS  
RALPH Lingo  
DEFENDANT. CASE No CC-03-599 W

FILE For Ammation Two Ask Judge WHITE TO STEP DOWN

① The Reason WAY IM Asking Judge WHITE TO STEP DOWN IS BECAUSES HES going TWO BE SUSPENDED IN THIS TRIAL AND OTHER TRIALS.

② I Ask Judge Anderson TWO STEP DOWN ON ALL OF MY CASES. YOU WILL ALSO BE CALLED AS A WITNESS ON ALL OF MY CASES.

③ I Ask Judge LARRY Anderson FOR A COPY OF HIS SACATARY WRITEN REPORTS ON THIS CASE. AND ALSO PHONE MESSIGES ON THIS CASE.

④ I Ask THE COURT TO TAKE OR LET ME TAKE A STATEMENT FROM EACH Judge BY A COURT REPORTER PRESENT ON EACH Judge. LARRY ANDERSON + Judge WHITE. DURING A PRIVET HEARING.





34

cc 03 - 1339, 40  
Re: Case CC03 - 599  
Re: Search Warrant

Ralph Lingo #190083  
E.C.F. 9A-66  
200 Wallace Dr.  
Clid, AL 36017

Hon. Harry Anderson

I am writing this letter to state my desires to you. First I would like for this letter to be part of the file pertaining to this case. First I am asking that Matthew Hamers be appointed to represent me. With the severity of the charges against me I need an experienced trial attorney, that is willing to fight on my behalf.

I want a Trial/Hearing on the validity of the search warrant, I believe that my rights were violated by my home being searched without anyone at home. When I did come home, I was forced to lie on the ground at gunpoint and was told by a Dothan City Police Officer in (Henry County) that he would blow my damn brains out if I didn't do what he said. I was never shown a search warrant and was told I could not enter my own home until the police wanted me to open my safe.

On several occasions since the search of my home, I have asked for a copy of the search warrant and the Affidavit in support of the Search Warrant, but as of this date my request has been ignored. Again I ask for

1001 3

Re: Case No.(s) CC03-1339, 40  
CC03-599

a Trial on the Validity of the search warrant within Thirty (30) days and a written response to this in Ten (10) days. Also I want a copy of the complete file pertaining to the charge(s) against me as a result of the Search Warrant executed on my home on 4-14-03.

Respectfully and Sincerely submitted by U.S. Mail on this 18th day of March 2004

Ralph Lingo 3-18-03  
Ralph Lingo #190083

\* Return Receipt Requested and Verified \*



Chuk's for  
Just give  
this letter  
as requested.  
doesn't require  
any action on my  
part only



Ralph Lingo #190083  
E.C.F. 9A-666  
200 Wallace Dr.  
Cliv, Al. 36017

Hon. Harry Anderson.

I am writing this letter as an affidavit asking the Court to file charges against Vonda Sue Williams on my behalf. for the charges of Forgery (2cts.) (She has forged my signature numerous times without my permission) and Identity Theft (1ct.) (She is portraying herself as me by operating my bussiness without my permission). I want her brought in front of the Grand Jury of Houston County so an Indictment can be brought against her. As a citizen of the State of Alabama and The United States of America, it is fully within my rights to file this complaint against a person that has comitted a crime against me.

Respectfully submitted on this 18<sup>th</sup> day of March 2004



Ralph Lingo 3-18-04  
Ralph Lingo

\* Return Receipt Requested and Verified \*

\* Please Sign and  
Keep on File \*

Date 3-23-04

Full  
CC 7003-599  
1339  
1340  
Ralph Lingo #190083  
ECF 94 - 66  
200 Wallace Dr.  
Chlo AL 36017

Honorable Court Clerk

I am writing this letter to request that you provide me with a true and correct copy of the following documents.

- ① Search Warrant
- ② Affidavit in Support of Search Warrant
- ③ Inventory of all seized.

**FILED**

MAR 23 2004

*Paul B. Bell*  
JUDY BIRD CLERK  
HOUSTON CO., AL

The Warrant was signed by Judge White and was executed on 4-14-03 and my home located at Highway 431 South in Newville in Henry County

Thank you for your time and assistance

The warrant was executed by Investigator T. Luker of the Dothan Police Department

Sincerely  
Ralph Lingo  
Ralph Lingo

I live in Henry County but the warrant was issued in Houston County according to the Circuit Court Clerk of Henry County

\* Return Receipt Requested and verified \*

Mr. Lingo, you need  
to request this info.  
from your attorney.

Lx



*Very Important*

**GYPSY ETHRIDGE  
CIRCUIT CLERK OF HENRY COUNTY  
HENRY COUNTY COURTHOUSE  
101 Court Square, Suite J  
Abbeville, Alabama 36310-2135  
(334) 585-2753**

April 27, 2004

Ralph Lingo #190083 9A-66  
Easterling Correctional Facility  
200 Wallace Dr.  
Clio, AL 36017

Mr. Lingo,

~~You appealed your plumbing case to Circuit Court for a jury trial. On the day that your case was set, you told Judge Jackson that you wanted to dismiss your appeal and accept the guilty plea. You wrote the Judge a letter saying that you wanted to appeal deciding to dismiss your appeal. Judge Jackson denied you motion to reinstate your appeal. You appealed that to the Court of Criminal Appeals and they refused to hear your appeal and that appeal was dismissed.~~

1. The search warrant that was issued was done in Houston County on a Houston County case that was being investigated. Henry County Sheriff's Deputy Troy Silva was there with the Officer from Houston County. There was a possibility that an officer from the State Fire Marshall's office there also. The Henry County court does not have anything to do with the search warrant and anymore papers or letters need to be addressed to the Houston County Circuit Clerk.

2. There is no probable cause for a kidnapping charge in that you were being investigated for a crime in Houston County. A warrant cannot be issued in Henry County. Please understand that Henry County has nothing to do with anything that arose out of an investigation in Houston County. Please address any further letters to Houston County Circuit Clerk.

Sincerely,

*Gypsy Ethridge*  
Gypsy Ethridge

*CASE, CC, 2003, 000 599, 60  
1340 1339*

IN THE CIRCUIT OF HOUSTON COUNTY, ALABAMARALPH WILSON LINGO

V.

CASE no. C.C. - 599STATE OF ALABAMAMOTION TO RETURN ILLEGALLY SIEZED PROPERTY

Comes now the Defendent RALPH WILSON LINGO ProSe, with this above-styled motion. Defendent moves this Honorable Court to grant this motion and ORDER the PROPERTY returned to him.

1) On 4-14-03 a search warrant was executed by Sgt. Tony Luker of the Dothan Police Department on Defendent's residence located at 10666 Hwy 431 S Newville, Alabama.

2) The following items were siezed and Defendent demands that they be returned.

- 1) 5-drawer file cabnet w/assorted files.
- 2) 2-drawer file cabnet w/assorted files.
- 3) box w/ assorted floppy discs.
- 4) assorted audio tapes.
- 5) assorted video tapes.
- 6) assorted bussines files and holder.
- 7) Hewlett Packard computer
- 8) Elvis Presly Sun Records Lable Album Collection.
- 9) personel family photos
- 10) Auburn/Alabama Cracker Barrel Can collection
- 11) Golden Flake Can collection
- 12) \$250,000.00 U.S. Currency
- 13) House keys, safe keys.
- 14) All Ralph Lingo Mobile Home Repair files.
- 15) All Newville Portable Building files
- 16) Video camera (Sony)
- 17) assorted video tapes (1500)
- 18) Access card for satalite takrn from safe
- 19) Personal medication
- 20) Stainless Steel Cookware
- 21) All monies siezed from Ralph Lingo Mobile Home Repair account

**FILED**

MAY 25 2004

*Judy Byrd*  
JUDY BYRD, CLERK  
HOUSTON CO., AL

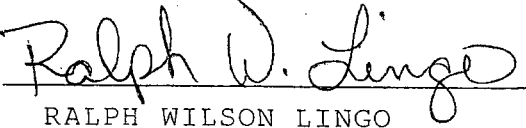
WHEREFORE:

Defendent prays that this Honorable Court take jurisdiction in this matter and grant Defendent's Motion and ORDER ALL PROPERTY RETURNED TO HIM.

Or... in the alternative order an evidentiary hearing so that ORAL ARGUMENT CAN BE MADE IN SUPPORT OF THIS MOTION.

Respectfully submitted on this 24th day of MAY, 2004.

RESPECTFULLY:

  
RALPH WILSON LINGO

5-25-2004 Motion to return illegally seized property

*Motion denied*  
*Quynh White, Jr.*

JUN 2 2004 N: Deft by email + DA



43

**JUDY BYRD**

CIRCUIT CLERK  
AND  
DISTRICT COURT CLERK  
HOUSTON COUNTY  
DOTHAN, ALABAMA 36302

Elaine Love  
Chief Clerk

(334) 677-4858  
P.O. Drawer 6406

Mr. Ralph Lingo  
Easterling Correction Facility  
200 Wallace Drive  
Clio, AL 36017

Mr. Lingo:

We are in receipt of your letter filed in our office on June 24, 2004. You requested a copy of a Search Warrant for a search performed on April 14, 2003 of your home in Henry County.

After a thorough search of our records in Houston County Clerk's office, we find no Search Warrant in your name or for any property in Henry County.

As we have previously advised you of our search, and we found nothing, you may want to check with the Henry County Records Department and see if they may have what you are requesting.

Very truly yours,

Judy Byrd  
Circuit Clerk  
Houston County Alabama

CASE: CC 2003.000 599.60  
00.1340.00, 1339.00



IN THE CIRCUIT COURT OF HOUSTON COUNTY, ALABAMA

RALPH LINGO

v.  
STATE OF ALABAMA

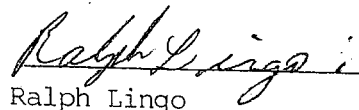
Case No. C.C. 03-1339,40, C.C. 03-

DEFENDANT'S AFFIDAVIT IN SUPPORT OF MOTION FOR ISSUANCE OF SUBPOENA

Ralph Lingo, being first duly sworn, deposes and says:

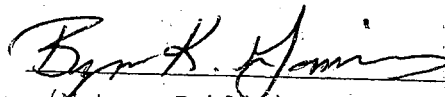
- 1) I am the Defendant herein.
- 2) The material and document the Defendant seeks is vital to his defense.
- 3) The Defendant cannot safely go to trial without the material he requests because it can clear him of all charges.
- 4) The Defendant by reason of his poverty does not have sufficient means and is actually unable to pay the fees to have subpoenas issued, and still provide himself with the necessities of life.

Respectfully submitted on this \_\_\_\_ day of July, 2004.

  
Ralph Lingo

Easterling Correctional Facility  
200 Wallace Dr.  
Clio, Alabama, 36017

Sworn to and subscribed before me on this 13 day of July, 2004.

  
(Notary Public)

My commission expires on 5-7-2006

**FILED**

**JUL 14 2004**

  
JUDY B. BELL  
CLERK  
HOUSTON CO. AL

In The Circuit Court of Houston County, Alabama

Ralph W. Lingo

JMW

State of Alabama

Case No. CC03-599, CC03-1339, 41

Motion for Disclosure of Criminal, Juvenile, Arrest  
Parole and Probation Records of Prosecution Witnesses

Comes now the Defendant Ralph W. Lingo ProSe, and respectfully requests this Honorable Court to enter an Order directing the Commissioner of Prisons and Probation or any appropriate party to provide the Defendant with certified copies of the following records of any and all persons whom the Prosecution intends to call as a witness at trial or any related proceeding herein:

- 1) Criminal convictions and adjudications of delinquency.
- 2) Arrests and criminal investigations, criminal and/or juvenile charges now pending and parole and/or probationary status.

In further support the Defendant maintains his rights under the Confrontation Clause of the Sixth Amendment to the United States Constitution, also requires such disclosure for the use in cross examination of any prosecution witness in the issue of bias. Alford v. United States, 282 U.S. 687 (1931)

- 3) The Defendant further moves this Honorable Court to order the attorney for the Prosecution to disclose to the Defendant any knowledge he or anyone of his associates has.

upon the exercise of due diligence, may have, which pertains to Paragraphs 1 and 2 above.

Wherefore: Defendant respectfully requests that this instant motion be granted.

Respectfully submitted on this 14 day of July, 2004

Ralph W. Lingo 7-14-04  
Ralph W. Lingo

Penalty of Perjury

I certify that the foregoing is true and correct to the best of my knowledge under 28 USC. 1746 Penalty of Perjury

Ralph W. Lingo 7-14-04  
Ralph W. Lingo

Certificate of Service

I certify that I have served a true and correct copy of the foregoing on the District Attorney of Houston County, Alabama, by placing same in United States Mail 1st Class postage prepaid on this 14<sup>th</sup> day of July, 2004.

I will not  
rule upon any  
further pleadings  
filed pro se by  
this defendant.  
All pleadings must  
be filed by attorney.

**FILED**

JUL 15 2004

John B. Bledsoe  
CLERK  
HOUSTON CO. AL

Ralph W. Lingo 7-14-04  
Ralph W. Lingo

IN THE CIRCUIT COURT OF HOUSTON COUNTY, ALABAMA

47

RALPH LINGO

v.

Case No. C.C.03-1339,40 C.C. 03-599

STATE OF ALABAMA

MOTION FOR ISSUANCE OF SUBPOENA

Comes now the Defendant Ralph Lingo ProSe, and respectfully moves this Honorable Court for an Order that a Subpoena be issued addressed to the Houston County District Attorney's Office located at P.O.Box 1632 Dothan Alabama, 36302-1632, commanding them to provide for Defendant's inspection all audio tapes seized from Defendant's home on 4-14-03, and Defendant's automobile at the time of Defendant's arrest. Defendant also request that a subpoena be issued for all written statements made by any and all witness" the State intends to present at trial. The above-named evidence and material are vital to Defendant's defence, the Defendant cannot safely go to trial without the above-named evidence and material, and the Defendant does not have sufficient means and is actually unable to pay the fees required to have said subpoenas issued, as is more fully shown in the Defendant's Affidavit attached hereto.

Respectfully submitted on this 13 day of July, 2004.

**FILED**

JUL 15 2004

*Judy R. Bledsoe*  
JUDY R. BLEDSOE, CLERK  
HOUSTON CO., AL

*Ralph Lingo*

RALPH LINGO

EASTERLING CORRECTIONAL FACILITY  
200 WALLACE DRIVE  
CLIO, ALABAMA, 36017

Sworn to and subscribed before me on this 13 day of July, 2004.

*Byron K. Davis*  
(Notary Public)

My commission expires on 5-7-2006

Date: 7-14-04

Re: Case No. CC03-599

Ralph Lingo #19008348  
Easterling Corr. Fac. 7A-134  
200 Wallace Dr.  
Clb, AL.  
36017

Hon. Judy Byrd;

I am writing to request that you provide me with a copy of the Case Action Summary for the above-referenced case and a copy of the documents relating to a bond hearing on this case.

Thank you in advance

Sincerely  
Ralph Lingo  
\_\_\_\_\_  
Ralph Lingo

**FILED**

JUL 15 2004

Judy Byrd  
JUDY BYRD, CLERK  
HOUSTON CO. AL

\* Return Receipt Requested \*

In The Circuit Court of Houston County, Alabama

Ralph W. Lingo

State of Alabama

Case No CC2003-599  
CC 2003-1339  
CC 2003-1340

Motion To Appoint Defendant Co-Counsel

Comes now the Defendant Ralph W. Lingo Prose, with this above-styled cause and moves this Honorable Court to take jurisdiction in this matter and grant Defendant's Motion. Defendant will show the court as follows:

- 1) Defendant is currently represented by the Honorable Tammy L. Stinson.
- 2) Defendant requests to be appointed as Co-Counsel in order to have fair and equal access to the courts and material that is relevant to his defense.
- 3) Defendant believes that the only way he will receive a fair trial is by being appointed Co-Counsel

Conclusion

Wherefore: Defendant prays that this Honorable Court take jurisdiction in this matter and grant Defendant's Motion to Appoint him as Co-Counsel. Or... in the alternative order a Hearing so Oral Argument can be made in support of this Motion.

Respectfully submitted on this        day of July, 2004

\_\_\_\_\_  
n l a . . . . .

Penalty of Perjury

Pursuant to 28 USC 1746 Penalty of Perjury I certify that the foregoing is true and correct to the best of my knowledge.

Ralph W. Lingo  
Ralph W. Lingo

Certificate of Service

I certify that I have served a true and correct copy of the foregoing on the District Attorney of Houston County, Alabama, by placing same in the United States mail 1<sup>st</sup> class postage prepaid on this — day of July, 2004

Ralph W. Lingo  
Ralph W. Lingo

**FILED**

JUL 15 2004

*John R. Lee*  
JUDY S. LEE  
HOUSTON CO. AL

IN THE CIRCUIT COURT OF HOUSTON COUNTY, ALABAMARALPH LINGO

v.

Case No. C.C. 03-1339,40 C.C.03-599 *Jmw*STATE OF ALABAMAMOTION TO PRODUCE

NOW comes the Defendant Ralph Lingo ProSe, with this above stated case, and moves this Honorable Court to take jurisdiction in this matter. Defendant will show the Court as follows:

- 1) Defendant requests that a copy of Scatt Casper's testimony be provided for Defendant's inspection.
- 2) Defendant requests a transcript of all audio cassette tapes that the prosecution has in their possession, also a copy of all audio tapes that the prosecution has in its possession.
- 3) Any and statements made by Vonda Sue Williams, Debra Tice Blackstone and any other witness the Prosecution intends to introduce at trial.
- 4) A certified copy of the Dothan City Jail Booking roster, and officer's on duty the day that Defendant was arrested and placed in jail.
- 5) A transcript of Sgt. Tony Luker's radio call log for the day that Defendant was arrested and placed in jail.
- 6) Transcript of audio cassette tapes given to Sgt. Tony Luker by Debra Tice Blackstone, (tapes dated 2-26-91 ).
- 7) A certified copy of the depositions made by witness' in order to obtain search warrant as set out by Title 15-5-4- Code of Alabama 1975.
- 8) A certified copy of the search warrant, affidavit in support of search warrant and inventory list of all items seized from the Defendant's home and vehicle.
- 9) Any other information that the Prosecution has that may prove Defendant's innocence.

CONCLUSION

WHEREFORE: the Defendant prays that this Honorable Court take jurisdiction  
inin this matter and grant Defendant's motion. Or... in the alternative



order a hearing so that oral argument can be made in support of this motion.

Respectfully submitted on this 15 day of July, 2004

Ralph Lingo

Ralph Lingo # 190083  
Easterling Corr. Fac. 8A-86  
200 Wallace Dr.  
Clio, Al. 36017

PENALTY OF PERJURY

I certify that the foregoing is true and correct to the best of my knowledge  
Pursuant 28 USC 1746 Penalty of Perjury.

Ralph Lingo

Ralph Lingo # 190083

CERTIFICATE OF SERVICE

I certify that I have served a true and correct copy of the foregoing on  
the District Attorney of Houston County, Alabama, by placing same in the  
United States mail 1st class postage prepaid on this 15 day of July, 2004

**FILED**

**JUL 19 2004**

*Shirley Byrd*  
**SHIRLEY BYRD, CLERK  
HOUSTON CO., AL**

Ralph Lingo

Ralph Lingo # 190083  
Easterling Corr. Fac.  
200 Wallace Dr.  
Clio, Al. 36017

8-25-04. File came back with no action taken.

7-1-03 N-Dept

Sept. 14, 2004 - Can control by agreement.  
Guy M. White  
Judge

PLEASE STAMP THIS BY THE COURT AND REF  
ONE ON FILE MRS. JUDY BYRD. AND WILL YOU  
SEND ME A COPY BACK STAMP THANKS.

55

8-2-04  
Date

Inmate's Name: Ralph Lingo

AIS# 190083

OFFICE OF THE CLERK  
JUDY BYRD Houston County Circuit Clerk  
Dothan AL Alabama

To Whom It May Concern:

I am presently preparing to pursue possible post-conviction remedies in Case #'s CC-03-1339, CC-03-1340. There are some documents that I am in need of from your office to assist me in the preparation of my post-conviction remedy. These documents, or at least some of them, may have been furnished previously; however, I am constrained because of circumstances beyond my control and must request that I be sent them at this time. It is already established in the Circuit Courts that I am indigent, and my status has not changed. I make this request pursuant to the Code of Alabama, 12-17-94; Article I, Section 6 of the Alabama Constitution; The Open Records Statute of the Code of Alabama, 36-12-40; The Alabama Rules of Criminal Procedure; and the First and Fourteenth Amendments of the U.S. Constitution, providing me with access to the courts, due process and equal protection of the laws. If you are unable to provide me with the below listed documents, please explain to me why I can't have them.

Please provide me with a copy of the following documents:

- ☒ (1) Case Action Summary Sheet
- ☒ (2) Record of Transcript/Conviction Report
- ☒ (3) Arrest Report
- ☒ (4) Police Investigator's Report
- ☒ (5) Indictments / SEARCH WARRANTS / AFFIDAVITS
- ☒ (6) Notice of Intent to Enhance as HFOA status
- ☒ (7) Plea Agreements
- ☒ (8) "Ireland" Forms
- ☒ (9) Complaints/Affidavits
- ☒ (10) Any and all pre-trial motions

In short, please send me the entire Clerk's record and/or the Circuit Court's file for the above cited case number(s). These documents are important to me. Your earliest and most serious attention to this request is most appreciated. Thank You.

Sincerely,

Ralph Lingo 8-2-04

Mailed Copies  
of CAS's and  
Arrest Report +  
Indictments +  
Plea Agreements  
on 8-30-04

**FILED**

AUG 03 2004

Judy Byrd

Case # 599

56

Judy Byrd Keep this on file with the court clerk and please stamp this.


Aug 5, 2004

**FILED**

A motion to fire my attorney  
and ask the Judge to step down

Dear Judge Wyatt,

AUG 09 2004

I am asking you to step down from  cases. I have had several letters filed to come before you in a hearing. You gave me a habeas Corpus hearing for intimidating a state witness my bond was set at two hundred thousand dollars by Judge Barry.

After that hearing you told me you cannot make a decision without talking everything over with him.

Barry used to date Debra back in their younger days, I wouldn't be a prisoner today if it hadn't been for you two Judges.

You told me that you would do what Barry tells you to do. Do you remember that? You work under Barry at that time. I don't know if you still do or not.

People with rape cases haven't got a bond higher than twenty thousand dollars. Armed Robbery isn't more than ten thousand.

In my belief you and Barry knew I would have gotten out of jail, I would've hired the best attorney, but you made sure that I

// and in jail so I couldn't hire a real attorney.

2. Keep on file and stamp

You made sure that I couldn't appeal your bond because you told the court reporter not to take anything down.

I feel that you violated my constitutional rights. That was the second habeas corpus hearing in two days.

I feel like the court has violated all of my constitutional rights. You know I cannot read or write. I lost everything I had because I feel like you Judge Wyatt could not give an honest and fair bond because of listening to Larry.

I remember R.L. Dice used to carry Delora around to all the court rooms and introduce her as his niece and y'all better take care of her is what he would say.

Delora came home and told me all about everything. But Judge you hold a high bond over my head and that's unfair to me and you know it.

Judge Wyatt I am asking you to resign yourself from my case. I will subpoena you and Larry Anderson to my trial.

In my belief I feel like you would have lowered my bond because you told me that  
// would the first day.

3. keep on file and stamp

During the second day you had to talk to Larry Anderson about everything. I feel like that was wrong. I don't know if Larry told you Debra used to be his girlfriend in their younger days before Larry got married.

I don't know what they are doing now but I feel like she has something on him.

I asked you several times for a pre-trial and you keep denying me. I also filed for a fast and speedy trial on Debra Blackstone. I want you to step down from my case because you and Larry Anderson will be subpoenaed for my case.

By the way Judge Wyatt I have asked you several times to get Sammy Stinson off my cases. She works for you and not for me.

She told me not to call or to write but once a month and only half a page. She lies to me when she tells me she's coming to see me because she doesn't.

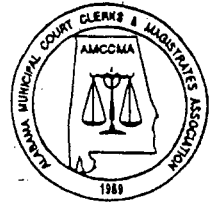
I will file more petitions on Sammy Stinson to get her off my cases. Her letters will speak for her. She made this choice herself.

Thank You and Goodbye to both of you. Write me back if there are any problems.



Honorable Rose Evans-Gordon  
Municipal Judge

# The City Of Dothan Municipal Court



Nancy Martin  
Municipal Court Administrator

August 11, 2004

Mr. Ralph Lingo  
Bullock County Correctional Facility  
P O BOX 5107  
Union Springs, AL 36089

Dear Mr. Lingo,

I have received your request for a copy of your search warrant. Unfortunately we are unable to provide you with a copy of this document.

I regret any inconvenience this may cause you.

Sincerely,

*Melissa Woods*

Melissa Woods  
Staff Assistant  
Dothan Municipal Court

JUDY BYRD

PLEASE STAMP RECEIVED  
AND PROVIDE ME WITH  
RECEIPT.

→ CASE: CC 2003,000 599, 130 CASE: CC 2003,000, 1340 1339



Mrs. Judy Byrd

Aug. 5, 2004

To the clerk of the court

Will you answer a couple of questions for me?  
Every legal document that comes into your office  
do you stamp them?

And do dockets stay in the court clerks office?  
Will you write me a letter and notarize it  
and sign it and date it and mail it back  
to me for my records?

Thank you Mrs. Judy Byrd

Keep on file and stamped  
and mail back please.

8-15-04

To: Clerk of Courts

From: Ralph Lingo

Date: 8-15-04

Re: Criminal Background Check

**FILED**

AUG 17 2004

Dear Mrs. Judy Byrd,

*Judy Byrd*  
JUDY BYRD, CLERK  
HOUSTON CO., AL

I am writing  
this for a document to keep on file with the  
Clerk of Courts. Please stamp this document.

Please keep this document with case  
number.

CC-03-599 - 1339 - 1340

Please put a copy in each file.

I am asking for a Criminal Background  
check

I am asking Doug Ualeska the district  
Attorney to give me a criminal background on  
Sue Williams. D.O.B. 11-11-50. Social Security  
number 233-84-7456. Age 52. A Criminal  
background check and FBI criminal background  
check.

I ask that you provide this within 30  
days from stamped letter. While I get  
ready for my defence.

Sincerely, 8-15-04

Keep on file and stamped,  
and mail back Please.

8-15-04

To: Clerk of Courts

From: Ralph Lingo

Date: 8-15-04

Re: Criminal Background Check

Dear Mrs. Judy Byrd,

I am writing  
you for a document to keep on file with the  
Clerk of courts. Please stamp this document.

Please keep this document with case number  
CC-03-599 CC-03-1339 CC-03-1340

Please put a copy in each file.

I am filing a motion for a criminal Background  
check.

I am asking Doug Valeska the district Attorney  
to give me a Criminal background on Scott A.  
Casper. D.O.B 7-28-59. Social Security number  
264-80-5523. Age 43. Criminal Background  
check and FBI Criminal background check.

I ask that you provide me this within 30  
days. While I get ready for my defence.  
30 days from this stamped letter.

Sincerely, *Ralph Lingo*  
8-15-04

Please Stamp this Mrs. Judy Byrd  
and send me a copy.

Case number CC-05-599

CC-03-1339

CC-03-1340

I filed for a motion to ask the court for  
all documents to be interduced to the Clerk of  
courts, and a copy of documents and all  
statements.

To provide me a copy of a Search Warrant  
and the aduicavit of the Search warrant.

I also ask the court for Tony Luker to turn  
over all records, filed documents. All pictures,  
an inventory list of everything regarding of  
Ralph Lingo's home. Aduicavit for Search Warrant

We also asked Tony Luker to provide every  
statement of the individual that he had spoke  
to. We want all diary notes. We want a list  
of everybody that was in my home on 4-14-03  
in Henry County. I also want the time.

I want all of Sue Williams statements,  
~~court statements and court statements~~. Written  
report and every time she had talked to  
Tony Luker. Date and time.

Sincerely, *Ralph Lingo*  
8-15-04

8-15-04

64

I asked the clerk of courts Mrs. Judy Byrd to send me supena forms so that I can have people brought to court. To mail to me at Bullock Correctional Center. I need over 10 for each one.

Please Mrs. Judy Byrd mail this back to me.

Sincerely, *Rahel Lingo*

8-15-04

8-14-04

RALPH LINGO #190083  
BULLOCK CORR. FACILITY  
P.O. Box 5107  
UNION SPRINGS, ALA. 36089

HONORABLE JUDY BYRD  
CIRCUIT CLERK  
DISTRICT COURT CLERK  
P.O. Box 6406  
DOTHAN, ALA. 36302

HON. JUDY BYRD,

WE ASK THE COURT TO HAVE, TONY LUKER, D.P.D. TO TURN OVER ANY AND ALL EVIDENCE ON CASE# C.C. 2003-599, C.C. 2003-1340, CC-2003-1339, SO THAT WE MAY REVIEW THEM. IN MOTION OF DISCOVERY, A CHECK THAT I WAS SUPPOSE TO OF CONTROLLED, THE PROPERTY OF FOREMOST INSURANCE COMPANY, WAS NOT IN THE THIS PACKAGE. IF THIS CHECK WAS CASHED THEN THERE SHOULD HAVE BEEN A COPY OF THE RETURN CHECK. WE ASK THE COURT TO INCLUDE THIS, AND ANY AND ALL OTHER EVIDENCE TO BE INCLUDED IN "DISCOVERY" AND SENT TO ME, VIA US POSTAL SERVICES TO THE ABOVE ADDRESS.

THANK YOU,  
Ralph Lingo

8-14-04

HON. JUDY BYRD.  
WE ASK THE COURT TO HAVE, TODD  
REGISTER. STATE FIRE MARSHALL'S  
OFFICE P.O BOX 303352 MONTGOMERY, AL  
3610.

TO TURN OVER ANY AND ALL EVIDENCE  
ON CASE # C.C. 2003-1340. CC-2003-1339.  
SO THAT WE MAY REVIEW THEM. IN  
MOTION OF DISCOVERY. A CHECK THAT I  
WAS SUPPOSE TO OF CONTROLLED, THE  
PROPERTY OF FOREMOST INSURANCE  
COMPANY, WAS NOT IN THE THIS PACKAGE.  
IF THIS CHECK WAS CASHED THEN  
THERE SHOULD HAVE BEEN A COPY OF  
THE RETURN CHECK. WE ASK  
THE COURT TO INCLUDE THIS, AND  
ANY AND ALL OTHER EVIDENCE TO  
BE INCLUDED IN "DISCOVERY"  
AND SENT TO ME, VIA US POSTAL  
SERVICES TO THE ABOVE ADDRESS.

Ralph Lingo 8-14-04



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M

Keep on file with the  
clerk of Courts and send  
me a stamped copy by  
the court.

Case Number CC-03-599-1339-1340

8-15-04

FILED

AUG 17 2004

I Ralph Lingo ask the state of Alabama drop all charges against Ralph Lingo. The State has failed along with the city of Dothan to show no search warrant. And no search warrant is on file with the Houston County clerks office. No inventory list has been returned to the clerk of courts. Sgt. Tony Luker of the city of Dothan did not return the search warrant or a inventory list back to the clerk of courts. It has not been returned back to the city of Dothan. There has not been one sent back to the Hendry County clerk of courts Gypsy Everette in Hendry county. I have got over 20 stamped documents by the clerk of courts of Hendry county. There has been no search warrant retured to the clerk of courts and there is none on file with the clerk of Hendry county. It has been a year and a half and both courts, Hendry County and Houston County have no records.

*Henry Byrd*  
HENRY BYRD, CLERK  
HOUSTON CO., AL



8-15-04

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Case number CC-03-599-1339-1340

By both courts Houston County and Hendry county had no record of the search warrant.

There was no search warrant to search Ralph Lingo's truck on 4-14-03 in Hendry county by the city of Dothan. Or there was no search warrants to search Ralph Lingo personally and in Hendry county in Ralph Lingo's home.

There was no search warrant to search Ralph Lingo's truck at his home.

There had no Inventory list of Ralph Lingo's truck. There was no inventory list of things taken out of Ralph Lingo's truck. I.E. Pictures billing file.

Ralph Lingo safe. There was no search warrant to search it. There was no Hendry County officer present during the search. Title 15-10-10

Title 15-10-1 Title 6-5-338 Title 15-10-2  
Title 15-5-3

8-15-04

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ge 3

Case number CC-03-599-1339-1340

Title 11-40-10

Ex Parte Borden cite as 769 So.2nd 950 (Ala. 2000)

These title will also follow the arrest into another county by the city of Dothan and taken back to the city of Dothan. I was in Hendry County of the town of Helen when the arrest was made, For intimidating a State witness.

13A-10-123 The arrest was made outside the Dothan city limits into another county in town. All my rights were violated

Go to rule of a search warrant, Rule of search warrant of the state of Alabama.

Rule 3.10

Rule 1.4 (p)

Title 15-5-8

Title 15-5-12 Time for return of execution

Title 15-5-2

Title 15-5-14

8-15-04

page 4

Case Number CC-03-599-1359-1340

Rule 3.11 execution and return with inventory

Rule 3.3(A) Ala. R. Crim. P.

Rule 3.7. Authority to issue search warrant

I am asking Judge White to dismiss all charges and I'm asking Judge White to dismiss the search warrant.

I am also asking the District Attorney office to dismiss all charges.

I ask for a 30 day hearing in Houston court for all charges to be dismissed and search warrant void. I ask to be brought in front of the court for a hearing no less than 30 days. I will also ask the court for a copy stamped of these 4 letters to be stamped by the clerk of courts.

I want the court to furnish me a copy for my file. Judge White and the district Attorney to examine all copy's in the arrest and to dismiss all charges.

Ralph L. Liao 8-15-04

8-15-04

To Mrs Judy Byrd personally  
Reply back with a letter head  
stamped and dated from you.

Mrs. Judy Byrd would you please stamp  
these 4 copies and send me a copy for my  
files. These extremely important documents.

Mrs. Judy Byrd,

I have wrote you a letter  
a couple of months asking if you stamp  
every letter that comes through your office,  
and every document that every party is  
filing. If the search warrant was in the  
file would it be stamped by the clerk of  
courts the day that it was filed.

If a Police or a Judge asked you  
to back date a document would you do  
that?

Will you write me letter the way you  
write all documents, and send me a letter  
the way the court does documents.

Ralph Lingo 8-15-04

**THE LAW OFFICE OF  
TAMMY L. STINSON**

313 N. FOSTER ST, SUITE 1 / P.O. BOX 756  
DOTHAN, ALABAMA 36302  
334-699-2143(OFFICE) 334-699-2221 (FAX)  
tammylstinson@graceba.net

ERIN DORENKOTT  
LEGAL ASSISTANT

August 27, 2004

Easterling Correctional Facility  
Attn: Ralph Lingo #190083  
P.O. Box 10  
Clio, AL 36017

RE: IN THE CIRCUIT COURT OF HOUSTON COUNTY, ALABAMA  
CASE NO.: CC-03-599  
CC-03-1339  
CC-03-1340

Dear Mr. Lingo:

Please be advised that a Trial pursuant to the above referenced matters has been set for **September 14, 2004 at 8:30 a.m.** at the Houston County Courthouse; Judge Jerry White presiding

If you have any questions regarding your cases, please feel free to write our office at the address listed above.

Sincerely,

*Shelly L. Brady*

Shelly L. Brady  
Legal Assistant

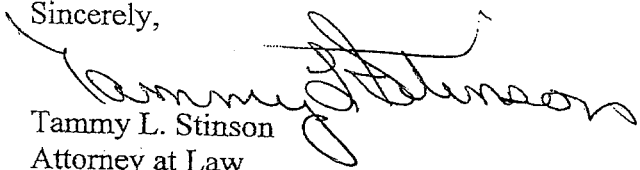
Sir, it is my office policy to respond in a timely manner to all of my clients with a written letter. You stated in you letter that I dodged you regarding the questions you have asked. I am not exactly sure which questions you are talking about. I do not intend to dodge you, as I try to answer any questions upon receipt. Unfortunately, I cannot afford to take a collect call from everyone that I represent. Therefore, I have to limit communication with my clients that are incarcerated outside of Houston County to written form. I have never once told you to limit you letters to a half page. As far as sending letters only once a month, I think that is very reasonable. In the past, you have written a letter to me at least once a week. I regret that I do not have time to respond to every single letter when received once a week. Therefore, I have asked that you compile all questions into a letter once a month. That will allow me to respond in a more timely manner.

I understand that you want me to get a obtain warrants against Rhonda Sue Williams for breaking into your office and Les Wilton for burglary. Unfortunately, the state does not compensate me to do that. I have an agreement with the State as far as representing you and that is not included. It is my responsibility to represent you on the charges against you by the State. If you are able, I recommend that you contact your family and friends to hire another attorney to handle that matter.

You stated in your letter that you begged me for a bond hearing. The judges do not hear bond hearings on individuals who are in the penitentiary serving time. When you let me know what your EOS date is, I will be more than happy to file for a bond hearing.

I will be sending you a report outlining what has been done regarding you case. That will be sent as soon as possible.

Sincerely,



Tammy L. Stinson  
Attorney at Law

**THE LAW OFFICE OF  
TAMMY L. STINSON**

313 N. FOSTER ST, SUITE 1 / P.O. BOX 756  
DOTHAN, ALABAMA 36302  
334-699-2143(OFFICE) 334-699-2221 (FAX)  
tammyl@graceba.net

ERIN DORENKOTT  
LEGAL ASSISTANT

August 12, 2004

Easterling Correctional Facility  
Attn: Ralph Lingo #190083  
P.O. Box 10  
Clio, AL 36017

Dear Mr. Lingo:

I am in receipt of your letter postmarked August 6, 2004. At this time, I will address the questions and comments included in your letter. In regard to your case in Henry County, I only did want you ask me. In your letter dated June 15<sup>th</sup>, for instance, you demanded that I withdraw from all of your cases. Therefore, since you requested that action, I did file a Motion to Withdraw in Henry County. As far as Houston County is concerned, Judge White is out of the county at this time, however, as soon as he returns, I fully intend to talk with him about this situation. I will notify you immediately of the outcome.

In regard to the discovery on your case, I have sent you a copy of all documents I received from the District Attorney's office. The affidavit and search warrant should have been included, however, in researching my copies, I do not find copies either. Since I am still your attorney at this time, I have written the District Attorney to request that those documents be made available to the defense. I have enclosed a copy of that letter for you records.

I am aware that you want me to subpoena the phone records from the county jail and I intend to do that.

In regard to your case in Barbour County, you stated that I left you hanging, however, as I have explained to you several times that you lost that appeal because you did not file in a timely manner. If you will remember, I even sent you the response from the Criminal Court of Appeals with the denial reason highlighted. I was not involved in your case at the time the appeal was filed. Therefore, the outcome is not a result of action on my part. As soon as I received notice on the decision, I forward said information to you immediately. Therefore, I do not understand why you claim that it took me six months to notify you.

Westlaw.

117 So. 3  
22 Ala.App. 468, 117 So. 3  
(Cite as: 22 Ala.App. 468, 117 So. 3)

Page 1

C

Court of Appeals of Alabama

YOUNG  
v.  
STATE.


4 Div. 436

May 15, 1928.

Appeal from Probate Court, Covington County;  
H.J. Brogden, Judge.

Petition of Roy H. Young for habeas corpus. From  
a judgment dismissing the petition, petitioner  
appeals. Reversed and rendered.

West Headnotes

Arrest  66(2)  
35k66(2) Most Cited Cases  
(Formerly 35k66)

Arrest and restraint on warrants executed in one  
county, but issued by justices of peace in other  
counties, *held* illegal (Code 1923, §§ 3272, 3274).  
\*468 \*\*3 Simmons & Simmons, of Opp, for  
appellant.

Charlie C. McCall, Atty. Gen., for the State.

\*\*4 BRICKEN, P.J.

The appellant, being in the custody of the sheriff  
and confined in the county jail of Covington county,  
complained by petition for writ of habeas corpus  
that he is being thus held without authority of law.  
The petition was directed to the Honorable H.J.  
Brogden, judge of probate, and in response to the  
writ the sheriff produced the \*469 prisoner as  
therein directed, and answered said writ by

admitting that he held the petitioner as alleged, and  
stated that such detention was under and by  
authority of two warrants of arrest--one issued by  
one R. Cornell, a notary public and ex officio  
justice of the peace of Tuscaloosa county, said  
warrant being directed: "To Any Lawful Officer of  
Said County." The other warrant appears to have  
been issued by one P.B. Shaw, a justice of the peace  
of Barbour county, Ala., and directed: "To Any  
Lawful Officer of Said County." The petitioner  
strenuously insists that the affidavits and warrants  
aforesaid are void upon their face, and shows no  
authority of law to justify his detention by said  
sheriff.

From the proceedings before us, we need not  
discuss the insistence as to the process aforesaid  
being void for uncertainty, or that no offense is  
therein charged, as it affirmatively appears the  
purported warrants afford no authority to the sheriff  
of Covington county, Ala., for the arrest or  
detention of the petitioner.

There is a constitutional provision to the effect that  
no person shall be accused, or arrested, or detained,  
except in cases ascertained by law, and according to  
the form which the same has prescribed.

Section 3272 of the Code 1923, provides that,  
when a warrant of arrest is issued by a judge of the  
Supreme Court, or Court of Appeals, or circuit  
court, or by a judge of any court of record, such  
warrant may be executed in any county in this state.  
The same section also provides, however, if said  
warrant is issued by any other magistrate, it can  
only be executed in the county in which it was  
issued, unless the defendant is in another county;  
and, when the defendant is in another county, it may  
be executed therein, but only upon a written  
indorsement on the warrant by a magistrate of that  
county signed by him, and giving authority that the  
warrant may be executed in said county. Section  
3274 prohibits such magistrate from making said  
indorsement unless such magistrate is satisfied from  
his own knowledge, or from oral or written  
statement, on oath, of some credible persons,



117 So. 3  
22 Ala.App. 468, 117 So. 3  
(Cite as: 22 Ala.App. 468, 117 So. 3)

Page 2

proving the handwriting of the magistrate issuing the warrant.

The warrants here in question bear no such indorsement of any magistrate in Covington county, Ala.; therefore it affirmatively appears that the arrest of the petitioner thereunder was without proper authority of law, and that his subsequent restraint by incarceration in the county jail is illegal. Such order should have been entered by the court below. The failure so to do is error. An order is here entered discharging the prisoner from further custody in these proceedings.

Reversed and rendered.

22 Ala.App. 468, 117 So. 3

END OF DOCUMENT

JERRY MOORE V. CLYDE CROCKER  
CITE AS 852 So.2d 89

Arrestee brought action against police officer for assault, false imprisonment, and other torts after arrestee was arrested without a warrant, jailed overnight, and subsequently released without ever having been charged. The Circuit Court, Perry County, No. CV-99-112, Jack W. Meigs, J., granted officer's motion for summary judgment. Arrestee appealed. The Supreme Court, Johnstone, J., held that officer exceeded his authority when he made warrantless arrest outside the county of the city where he was employed, and thus, did not have discretionary function immunity from suit. Reversed and remanded.

#### Municipal Corporations

Police officer exceed his authority when he made warrantless arrest in county other than the county which contained city that employed him, and thus, officer did not have discretionary function immunity from arrestee's action against him for assault and other torts. Code 1975, § 6-5-338

The plaintiff Jerry Moore appeals a summary judgment in favor of the defendant Clyde Crocker, a police officer of the City of Brent, located in Bibb County. Moore sued Crocker and other for torts allegedly committed in arresting Moore without a warrant at Moore's home in Marion in Perry County, transporting him to Brent, and jailing him there overnight without charging him. Moore asserted, among other theories, assault and false imprisonment. Crocker asserted, among other defenses, peace officers' immunity pursuant to § 6-5-338, Ala.Code 1975. We reverse and remand.

The order by the trial court states the operative facts and reveals the dispositive issue:

"this matter is before the Court on the motion for summary judgment of the Defendant, Clyde Crocker. The other Defendants have been dismissed by prior order of this Court.

"the undisputed facts relevant to this motion are that Officer Clyde Crocker at the time of the events complained of was employed as a police officer by the City of Brent located in Bibb County, Alabama. Acting on instructions from his Chief of Police, Officer Crocker and Officer Stewart Deerman, also of the Brent Police Department, proceeded to Marion in Perry County to the home of the Plaintiff, Jerry Moore. Crocker had been directed by the Brent Chief of Police to arrest Moore and bring him back to Brent for questioning regarding items that had been reported stolen from a residence in Brent, Alabama. He was acting on information given him by Sharon Jones, whose mother was living with Mr. Moore, the Plaintiff.

"Crocker and Deerman went to Moore's house and told him why they were there. Crocker searched Moore's house but did not find any of the items. He then handcuffed Mr. Moore and transported him to the City of Brent and turned him over to the Chief of Police. Mr. Moore was placed in jail by another officer and released the next day without ever having been charged. He contends that these actions by Crocker amounted to false imprisonment/arrest and an assault and battery.

Crocker contends that he is entitled to discretionary function immunity pursuant to Section 6-5-338[, Ala.Code 1975.] That Code section provides that every 'peace officer ... shall have immunity from tort liability arising out of his or her conduct in performance of any discretionary function within the line and scope of his or her law enforcement duties.' Alabama caselaw has established that discretionary function immunity shields police officers who make an arrest based on probable cause even if the person arrested is ultimately acquitted. [Moore] contends, however, that Crocker did not have the authority to arrest Moore because he had no warrant and because he was outside his jurisdiction. Prior to the [adoption] of Rule 3.3 of the Alabama Rules of Criminal Procedure, Section 15-10-1[, Ala.Code 1975], controlled and stated that an arrest may only be made with or without a warrant by officers acting within their respective jurisdiction. The Alabama Court of Criminal Appeals has held in *Smith v. State*, 727 So2d 147 (Ala.Crim.App. 1998), that Rule 3.3 supersedes Section 15-10-1. That rule provides that any law enforcement officer within the State of Alabama may execute a warrant anywhere within the State of Alabama. In *Smith*, the Court ruled that an officer who has probable cause to arrest may do so anywhere within the State of Alabama pursuant to Rule 3.3. Because it appears that it is undisputed that the Brent Police Officers had probable cause to arrest Mr. Moore based upon the statements of the witness, Crocker was authorized to arrest him.

"Accordingly, the Court finds that Crocker is entitled to discretionary function immunity and his motion for summary judgment is due to be granted. The Court hereby grants [Crocker's] motion for summary judgment and enters judgment in his favor."

The place of the arrest, Marion in Perry County, is over 20 miles from the City of Brent in Bibb County, and is outside the police jurisdiction of the City of Brent, which employed Crocker as a police officer.

Section 6-5-338, Ala.Code 1975, invoked by Crocker, provides in pertinent part:

The phrase "within the State of Alabama" merely completes the description of the category of persons who may obtain and execute arrest warrants, to include all law enforcement officers within that category. The Committee Comment to rule 3.3 so indicates:

"The rules provide a functional definition of 'law enforcement officer'. Under the definition contained in Rule 1.4(p), anyone who serves as an officer, employee, or agent of the State of Alabama who has a legal duty to maintain order and to make arrests (whether in a general or limited capacity) will be considered a 'law enforcement officer' and will be able to execute arrest warrants."

We conclude that the phrase "within the State of Alabama" does not address the question where arrest warrants may be executed, but only the question who may obtain and execute them. The statutory restrictions on where arrest warrants, once issued, may be executed remain binding, to protect the public from imposters and to prevent the unexplained disappearance of people from the county.

Section 15-10-10, which the officers violated in this case, is a public safety statute. It allows a judge or magistrate in a particular county to pass on the validity of an arrest warrant issued elsewhere and to pass on the identity and authority of the person who proposes to execute the warrant before that person may take someone there into custody and away from the county. Nothing in this statute conflicts with Rule 3.3(a), Ala.R.Crim.P., so as to imply that Rule 3.3(a) supersedes or preempts the statute.

#### ARREST

A law enforcement officer may not obtain an arrest warrant in one county and execute it in another county without also obtaining, before executing the warrant its endorsement by a judge or magistrate of the county where the arrest is to take place. Code 1975, §15-10-10.

ROSS v. NEFF 905 F.2d 1353-54

Illega Arrest, We have implied that an arrest made outside of the arresting officer's jurisdiction violates the Fourth Amendment to the Constitution and is therefore actionable pursuant to 42 U.S.C. §1983 under the appropriate circumstances.

§ 6-5-338

## CIVIL PRACTICE

§ 6-5-338

§ 6-5-338

acy where the evidence indicated that one of the officers knew of recent acts of vandalism in his neighborhood, did not recognize the plaintiff's car as belonging to someone living on the cul de sac, were therefore justified in performing an investigatory stop to determine what the plaintiff and his companions were doing in the neighborhood and, when the plaintiff failed to produce his driver's license, had probable cause to arrest him. *Ex parte Duvall*, 782 So. 2d 244 (Ala. 2000).

Police officer and the municipality which employed him were entitled to discretionary function immunity pursuant to this section where his actions in deciding how to conduct the search of the plaintiff's son, given that he allegedly knew that the youth was suicidal, and his decision not to relay the alleged suicide threats to the probation officers went beyond checking "yes" or "no" on a form, or driving to avoid potholes, and instead required "personal deliberation, decision and judgment." *Richards v. Southeast Ala. Youth Servs. Diversion Ctr.*, 105 F. Supp. 2d 1268 (M.D. Ala. 2000).

A police officer was performing a discretionary act and entitled to immunity from liability pursuant to this section where, faced with a situation which required him to make a difficult split-second decision between pursuing a suspect being followed by a witness and securing a well-lit accident scene with no injuries, he chose to follow the suspect/drunken driver, which decision was "an exercise in judgment and choice and [involved] what [was] just and proper under the circumstances." *Ex parte City of Gadsden*, 781 So. 2d 936 (Ala. 2000).

Police officer's investigation of a forgery, which involved the newspaper publication of a photograph of innocent parties with statements that they were suspects in the investigation, was a discretionary activity regarding which the officer was immune from liability, absent proof he acted with malice. *Key v. City of Cullman*, 826 So. 2d 151 (Ala. Civ. App. 2001).

Because there was no evidence tending to show that the officer was pursuing a discretionary function, i.e., was effectuating a lawful arrest, the city failed to demonstrate that it was entitled to immunity and the trial court erred in dismissing the wrongdoer's state-law claims. *Telfare v. City of Huntsville*, 841 So. 2d 1222 (Ala. 2002).

Law whose express intent was to extend immunity to peace officers, and governmental units or agencies authorized to appoint peace officers, for discretionary acts performed in enforcing the laws, provided the city with discretionary-function immunity for the police officer's conduct in arresting the criminal suspect as the evidence showed the arrest was done in the line and scope of his law-enforcement du-

ties. *City of Birmingham v. Sutherland*, 834 So. 2d 755 (Ala. 2002), cert. denied, 537 U.S. 1018, 123 S. Ct. 537, 154 L. Ed. 2d 425 (2002).

Where police officers had probable cause to arrest and detain an individual, the act of arresting him for a felony without a warrant was discretionary, and the officers were protected under Ala. Code § 6-5-338. *Lee v. Minute Stop, Inc.*, — So. 2d —, 2003 Ala. LEXIS 187 (Ala. June 20, 2003).

Summary judgment for a police officer in a suit arising out of the officer's arrest of an injured party, who was subsequently acquitted, was reversed as to the excessive force, false arrest, false imprisonment, and assault and battery claims; because factual issues remained as to whether the officer had arguable probable cause to arrest the injured party, the officer was not entitled to discretionary function immunity under Ala. Code § 6-5-338 as a matter of law. *Borders v. City of Huntsville*, — So. 2d —, 2003 Ala. LEXIS 222 (Ala. July 25, 2003).

**Evidence.**

Summary judgment on the ground of discretionary function immunity was inappropriate where a jury could reasonably determine that the defendant-police officer's arresting and subsequently instituting criminal proceedings against the plaintiff was malicious and in bad faith. The evidence, viewed most favorably to the plaintiff, suggested that the defendant had no grounds to believe the plaintiff had committed any offense whatsoever but rather simply did not like his questioning his authority or suggesting racist motivations. *Walker v. Briley*, 140 F. Supp. 2d 1249 (N.D. Ala. 2001).

Where a driver was cited and arrested for reckless driving after refusing a plea bargain for speeding arising out of the same incident, the citing officer was entitled to immunity under Ala. Code § 6-5-338(a) since the existence of probable cause for both the arrest and the prosecution precluded any finding that the officer acted with malice or in bad faith. The officer's observation that the driver was substantially exceeding the speed limit in a large truck in an area of hazardous construction conditions provided sufficient cause to believe the driver was committing reckless driving, and the driver's refusal to sign the belated citation justified the arrest. *Wood v. Kesler*, 323 F.3d 872 (11th Cir. 2003).

**Jurisdiction.**

If alleged assault occurred outside the town's police jurisdiction, then the officer and the mayor had no discretion in exercising police authority there. *Newton v. Town of Columbia*, 695 So. 2d 1213 (Ala. Civ. App. 1997).

A police officer's arrest of the plaintiff outside

the county contained officer exceeded his claim foreclosed his claim. *Moore v. Crocker*, 8

**Procedure — Trial**

The court refused on discretionary function immunity. The court had not yet considered non-jurisdictional questions of defendants/police officers. The defense was, however, without the defense at a late stage after there had been a settlement. *Hawkins v. Supp.* 2d 1356 (M.D.

**Illustrative cases.**

Officer was not in municipal law enforcement. *Crouch v. Whit* (M.D. Ala. 1995).

The city police of the plaintiff established law, an enjoy qualified immunity from false arrest and excessive force. The officer became the owner of a car. The advice and suggestion of law, and where the plaintiff handled plaintiff's wronging her in his cruel. *F.3d 1231* (11th Cir.

Officer granted action for illegal arrest, where plaintiff complied to formal notice and where the weight that officer had heard and search plaintiff. *708 So. 2d 144* (Ala.

Police officers were in any function when they were there for the arrestee's meeting where the arrestee in the warrant, but officers as to the arrest so that the to make the arrest. *Montgomery*, 732 1999).

A police officer was in any function immune from force in an arrest for reasonable trier of amount of force employed. *egregious and that and colored by the haired acid freaks'*



§ 6-5-338

§ 6-5-338

## ACTIONS

§ 6-5-338

*am v. Sutherland*, 834 So. 2d 425 (2002).

denied, 537 U.S. 1018. Ed. 2d 425 (2002).  
s had probable cause to individual, the act of lony without a warrant d the officers were pro § 6-5-338. Lec v. Minute —, 2003 Ala. LEXIS 187

for a police officer in a he officer's arrest of an subsequently acquitted, ie excessive force, false ment, and assault and use factual issues re- the officer had arguable st the injured party, the i to discretionary func- la. Code § 6-5-338 as a v. City of Huntsville, — EXIS 222 (Ala. July 25,

on the ground of discre- nit- as inappropriate so determine that ce- arresting and sub- criminal proceedings s malicious and in bad wed most favorably to that the defendant had e plaintiff had commit- ver but rather simply ming his authority or tions. Walker v. Briley, D. Ala. 2001).

ited and arrested for refusing a plea bargain t of the same incident, tited to immunity un- (a) since the existence th the arrest and the y finding that the of- or in bad faith. The t the driver was sub- speed limit in a large zardous construction cient cause to believe ing reckless driving, to sign the belated st. Wood v. Kesler, 323

red outside the town's the officer and the in exercising police v. Town of Columbia, Ar- 1997). f ntiff outside

X the county containing the city employing the officer exceeded his authority and therefore foreclosed his claim of peace officer immunity. Moore v. Crocker, 852 So. 2d 89 (Ala. 2002).

## Procedure — Trial.

The court refused to dispose of the case based on discretionary function immunity where the court had not yet considered any evidence on non-jurisdictional questions. The denial of the defendants/police officers' motion to dismiss was, however, without prejudice to their raising the defense at a later stage of the proceedings. after there had been time for factual develop- ment. Hawkins v. City of Greenville, 101 F. Supp. 2d 1356 (M.D. Ala. 2000).

## Illustrative cases.

Officer was not immune from suit as a municipal law enforcement officer under this section. Crouch v. Whatley, 900 F. Supp. 1567 (M.D. Ala. 1995).

The city police officer's actions in arresting the plaintiff established a violation of clearly established law, and thus, the officer did not enjoy qualified immunity from the plaintiff's false arrest and excessive force claims, where the officer became enraged when the plaintiff, the owner of a motel, rejected the officer's advice and suggested that he did not know the law, and where the officer aggressively man- handled plaintiff while arresting her and plac- ing her in his cruiser. Sheth v. Webster, 145 F.3d 1231 (11th Cir. 1998).

Officer granted summary judgment in an action for illegal arrest and malicious prosecu- tion, where plaintiff's "Notice of Claim" did not comply to formal notice or filing requirements, and where the weight of the evidence indicated that officer had had probable cause to arrest and search plaintiff. Couch v. City of Sheffield, 708 So. 2d 144 (Ala. 1998).

Police officers were engaging in a discretion- ary function when they arrested the plaintiff and were therefore immune from liability for the arrestee's malicious prosecution claim, where the arrestee was not the person named in the warrant, but the facts available to the officers as to the arrestee's identity were con- flicting so that the officers had probable cause to make the arrest. Montgomery v. City of Montgomery, 732 So. 2d 305 (Ala. Civ. App. 1999).

A police officer was not entitled to discretion- ary function immunity from suit for excessive force in an arrest for disorderly conduct, since a reasonable trier of fact could find that the amount of force employed by the defendant was egregious and that some of it was precipitated and colored by the officer's disdain for "long- haired acid freaks" who needed to be run out of

town. Nolin v. Town of Springville, 45 F. Supp. 2d 894 (N.D. Ala. 1999).

Officers' failure to comply with the manda- tory written report requirements was not a proximate cause of victim's death and the mu- nicipality could, therefore, not be held liable for the acts of the officers. Williams v. City of Montgomery, 48 F. Supp. 2d 1317 (M.D. Ala. 1999), aff'd, 200 F.3d 821 (11th Cir. 1999).

Full summary judgment should have been granted where the city made a prima facie showing that the officer arrested the defendant with probable cause and without bad faith or a malicious or willful intent, and the defendant did not refute this showing before the partial summary judgment was entered. Ex parte City of Montgomery, 758 So. 2d 565 (Ala. 1999).

Defendants were granted immunity where they made an initial showing that they were engaged in a discretionary function, the execu- tion of a valid search warrant, and the plaintiff could produce no substantial evidence indicat- ing that the defendants' conduct was so egre- gious as to amount to willful or malicious conduct or conduct engaged in in bad faith. Moore v. Adams, 754 So. 2d 630 (Ala. 1999).

The claims of plaintiffs, employees of a flea market vendor, against the City for the conduct of a police officer who arrested and handcuffed them, although there was no evidence that they knew the merchandise they were selling was unauthorized and/or that its sale would consti- tute theft of a trademark in violation of § 13A- 8-10(b), were barred by this section, which provides peace officers with immunity, as well as by their failure to file a timely notice of claim with the City as required by § 11-47-23. Scarbrough v. Myles. — F. Supp. 2d —, 2000 U.S. Dist. LEXIS 11321 (S.D. Ala. July 28, 2000), rev'd on other grounds, 245 F.3d 1299 (11th Cir. 2001).

The police officer who arrested two vendors of trademarked goods without establishing whether the vendors knew that the goods they sold violated trademark laws was entitled to qualified immunity where the officer violated no clearly established law in formulating prob- able cause, and his co-defendant, the testifying officer, was entitled to absolute immunity in spite of challenges to his credibility. Probable cause does not require an arresting officer to prove every element of a crime or to obtain a confession before making an arrest Scarbrough v. Myles, 245 F.3d 1299 (11th Cir. 2001).

When police officer failed to abide by act, and failed to impound driver's car, the officer, the city, and the police chief were liable for statu- tory negligence; if the car had been impounded, the intoxicated driver, who cause fatal accident five hours after being stopped by the police officer, would not have had ready access to it.

§ 11-40-10

## GENERAL PROVISIONS

§ 11-40-10

**§ 11-40-10. Police jurisdiction; territorial operation of ordinances for enforcement of police or sanitary regulations.**

The police jurisdiction in cities having 6,000 or more inhabitants shall cover all adjoining territory within three miles of the corporate limits, and in cities having less than 6,000 inhabitants and in towns, such police jurisdiction shall extend also to the adjoining territory within a mile and a half of the corporate limits of such city or town.

Ordinances of a city or town enforcing police or sanitary regulations and prescribing fines and penalties for violations thereof shall have force and effect in the limits of the city or town and in the police jurisdiction thereof and on any property or rights-of-way belonging to the city or town. (Code 1907, § 1230; Code 1923, § 1954; Code 1940, T. 37, § 9.)

This section is constitutional. *White v. City of Decatur*, 225 Ala. 646, 144 So. 873 (1932).

Alabama's police jurisdiction statutes under which residents of unincorporated community on outskirts of city while denied right to vote in municipal elections were subjected to city's police and sanitary regulations, to criminal jurisdiction of city's court and to city's power to license businesses, trades and professions, were rational legislative response to problems faced by the state's burgeoning cities, and violated neither equal protection clause nor due process clause of fourteenth amendment. *Holt Civic Club v. City of Tuscaloosa*, 435 U.S. 914, 99 S. Ct. 383, 58 L. Ed. 2d 292 (1978).

Statute has statewide application. — Alabama statutes, including statute providing that municipal police and sanitary ordinances shall have force and effect in the limits of the city or town and in the police jurisdiction thereof and on any property or rights-of-way belonging to the city or town had statewide application and it was irrelevant that named defendants were local officials where those officials were functioning pursuant to a statewide policy and performing a state function, and thus the convening of a three-judge district court was proper to hear constitutional attack on such statutes. *Holt Civic Club v. City of Tuscaloosa*, 435 U.S. 914, 99 S. Ct. 383, 58 L. Ed. 2d 292 (1978).

Power of state legislature. — The state legislature had power to confer on cities the power to exercise police jurisdiction over properties belonging to the city situated outside and beyond the general police jurisdiction of the city. *City of Birmingham v. Lake*, 243 Ala. 367, 10 So. 2d 24 (1942).

"Police jurisdiction" is a matter separately determined by the legislature and delegated to the municipalities alone. Since a municipality cannot barter away a governmental power

specifically delegated to it by the legislature, it follows that it also cannot waive or relinquish such power. *City of Leeds v. Town of Moody*, 294 Ala. 496, 319 So. 2d 242 (1975).

Section part of every municipal charter.

— This section, being a general law, is considered a part of every municipal charter. *Trailway Oil Co. v. City of Mobile*, 271 Ala. 218, 122 So. 2d 757 (1960).

Section in effect amended by section 11-51-91. — Since the application of this section would, in some sections of the state, create or result in an overlapping police jurisdiction, it was in effect amended and made more specific and directory in its application, with particular reference to overlapping territory, by § 11-51-91. *Town of Graysville v. Johnson*, 33 Ala. App. 479, 34 So. 2d 708 (1948). See note to § 11-51-91.

This section is not all encompassing, and it is not to be inferred that a city may exercise any and every police power over the zone outside its corporate limits, styled its "police jurisdiction," which it may exercise within its corporate limits. *Roberson v. City of Montgomery*, 285 Ala. 421, 233 So. 2d 69 (1970).

Power to enforce zoning regulations does not extend beyond municipal limits. *Town of Gulf Shores v. Lamar Adv. of Mobile, Inc.*, 518 So. 2d 1259 (Ala. 1987).

Power extended to "adjoining territory" which is outside the city. — This section does not purport to add to the city's territorial extent, but does give the city the power to exercise certain specified authority called police jurisdiction within adjoining territory. *Ex parte Wilson*, 269 Ala. 263, 112 So. 2d 443 (1959).

The "police jurisdiction" exercised outside the corporate limits of a city covers territory that is not a part of the corporate body of that city, but is described in this section as "adjoining territory." The authority exercised within



## CHAPTER 10

## ARRESTS

## Article 1

## Arrest Before Indictment

Sec.

- 15-10-1. Authority to arrest.
- 15-10-2. Execution of warrant.
- 15-10-3. Warrantless arrest; grounds — Domestic violence report.
- 15-10-4. Warrantless arrest; execution.
- 15-10-5. Repealed.
- 15-10-6. Offense committed before judge.
- 15-10-7. Citizens arrest; grounds.
- 15-10-8. Notice of arrest for capital felony.
- 15-10-9. Escape of arrestee.
- 15-10-10. Place of execution of warrant.
- 15-10-11. Pursuit into other county.
- 15-10-12. Execution of warrant in county other than issuing county.
- 15-10-13. Endorsement of arrest by judge.
- 15-10-14. Detention for shoplifting.

## Article 2

## Arrest After Indictment

- 15-10-30. Custody of defendant.

## Article 3

## Issuance and Execution of Writ

- 15-10-40. Generally.
- 15-10-41. Felony indictment; form of writ.

Sec.

- 15-10-42. Misdemeanor indictment; form of writ.
- 15-10-43. Number issued.
- 15-10-44. Execution authority.
- 15-10-45. Place of execution.
- 15-10-46. Copy of writ to jailer.
- 15-10-47. Return of writ.

## Article 4

## Bench Warrants

- 15-10-60. Definition.

## Article 5

## Arrest in Other Counties

- 15-10-70. Notice of arrest.
- 15-10-71. Removal order.
- 15-10-72. Endorsement of removal order.
- 15-10-73. Application for employment of guard in removal.
- 15-10-74. Fresh pursuit.

## Article 6

## Fingerprinting of Persons Taken Into Custody

- 15-10-90. Duty of sheriff.
- 15-10-91. Maintenance of records.
- 15-10-92. Equipment furnished to sheriff.
- 15-10-93. Cards.

## ARTICLE 1

## ARREST BEFORE INDICTMENT

## § 15-10-1. Authority to arrest.

An arrest may be made, under a warrant or without a warrant, by any sheriff or other officer acting as sheriff or his deputy, or by any constable, acting within their respective counties, or by any marshal, deputy marshal or policeman of any incorporated city or town within the limits of the county.

**Cross references.** — This law is referred to in: § 15-10-7.

Constitutional provision, accusation, arrest and detention, etc., Const. Ala., art. I, § 7.

Municipal court, issuance of arrest and search warrants, § 12-14-32.

Use of force in making arrest or preventing escape, § 13A-3-27.

**C.J.S.** — C.J.S., Arrest, §§ 10 et seq., 43 et seq.

**ALR.** — Burden of proof in civil action for using unreasonable force in making arrest as to rea-

sonable of force used. 82 ALR4th 598.

Denial of, or interference with, accused's right to have attorney initially contact accused. 18 ALR4th 669.

Validity, in state criminal trial, of arrest without warrant by identified peace officer outside of jurisdiction, when not in fresh pursuit. 34 ALR4th 328.

PLEASE STAMP RELIEVED  
AND PROVIDE ME WITH COPY OF RECEIPT. 9-2-04

Ralph Lingo  
Bullock County Correctional Facility  
PO Box 5107  
Union Springs, AL 36089

JUDY BYRD  
CIRCUIT CLERK/DISTRICT COURT CLERK  
HOUSTON COUNTY  
DOTHAN, ALA. 36302

Jmw

RE: DISMISSAL OF SAID CHARGES - CASE: CC 2003 000 599, 60  
CASE: CC 2003 001340, 00 CASE: IL 2003, 00, 1339, 00  
JUDY BYRD,

I'M FILING FOR A DISMISSAL OF ALL CHARGES.  
THE CITY OF DOTHAN HAS NO RECORD OF A  
SEARCH WARRANT. I HAVE A SIGNED LETTER  
FROM MELISSA WOODS, STAFF ASSISTANT, DOTHAN  
MUNICIPAL COURT STATING THIS FACT. OR I ASK  
FOR A HEARING IN THE NEXT 30 DAYS FOR  
A JUDGE TO RULE ON THIS. IF HOUSTON COUNTY  
DOESN'T DROP THESE CHARGES, I HAVE NO OTHER  
CHOICE BUT TO FILE CIVIL SUIT AGAINST YOU.  
I'LL ASK FOR (1) MILLION DOLLARS. 30 DAYS IS  
DEAD-LINE

**FILED**

SEP 03 2004

*Judy Byrd*  
JUDY BYRD, CLERK  
HOUSTON CO AL



(Clerk Stamped Sealed)  
mail copy to me please

10

84

9-3-04

**FILED**

SEP 07 2004

Judy Byrd  
JUDY BYRD, CLERK  
HOUSTON CO., AL

Case #: CC-03-599

CC-03-1339

CC-03-1340

Judy Byrd,

District Clerk, Houston County Court Clerk:

I received a letter, advising me, that I'm to be going to trial, September 14, 2004 at 8:30 a.m. at the Houston County Courthouse, Judge Jerry White presiding.

What I want to know, is this a trial on my cases, or a trial on search warrants. If this is a trial, I ask that the trial be stopped at once. I haven't got my defense ready. Every thing I asked my attorney to get have not be done. We are not ready for trial. If the state, take me to trial, after I notify them, can call Civil procedure. I want the State to be fair to me, and I want to be fair to the State. We are not ready for trial.

Ralph Lingo 9-3-2004

**FILED**

Ralph Lingo

SEP 23 2004

Case No: CC-2003-000599

Case No: CC-2003-1339

Case No: CC-2003-1340

-US-

State of Alabama

JUDY BYRD, CLERK  
HOUSTON CO., AL

in the county of Houston county

I, Mr Ralph Lingo, ask the circuit of Houston County for the following subpoenas. These documents, These documents are for the Henry County Sheriff Department to reply to all requests and documents,

I, Ralph Lingo, ask the Circuit Court of Houston County for the following subpoenas. We ask for all of the requests to be met under a court order before my trial. We ask that there be no trial until these requests are more met for my defence, AND we ask for two weeks to examine these records before my trial. We ask the Judge to grant Ralph Lingo these requests and no attorney can waive this.

ALL CLERK OFFICE SEAL Stamp.

1. I request to have all records of Troy Silva with the Henry County Sheriffs Department. (Investigator) 101 W. Court Sq. Suite G. Abbeville, AL. I request all records from the dates of 05, 07, 2003, 05-17-2003, 04-14-03, from the time of 5:00 A.M., until 10:00 P.M.

I'm also requesting the dispatch log sheets, all transcripts, all radio transmissions from Troy Silva to dispatch and from dispatch to Troy Silva, (INVESTIGATOR) with the Henry County Sheriffs Department. I only request for times and dates above.

2. I am also requesting a background check (criminals) from N.C.I.C., and F.B.I. I also request a work report of Troy Silva (Investigator) with the Henry County Sheriffs DEPARTMENT.
3. I am requesting dispatch log on the radio, on 04-14-2003, 05-7-2003, 05-17-2003.
4. I am requesting any Alabama Uniform arrest reports from today's date back two years, or any type of report or any statement.
5. I am requesting any type of Report, Criminal or otherwise, done by any Henry County Sheriffs DEPARTMENT personnel from three years back to today's date.

6. I ask of the Henry County Court to furnish me with a log sheet of each Judge on 04-14-2003.
7. I ask for dispatch log sheets on 04-14-2003 and 05-07-2003 from 6:00 A.M. to 6:00 P.M.
8. I ask that Henry County Sheriff, Lawton Ed Armstrong provide me with a copy of a liability bond, and a workmanship liability bond. It needs to be stamped by the circuit court clerk, (Gypsy Etheridge), from the date he was deputized. We also ask for any paper work from the time he was being deputized. All applications, all pictures, copy of fingerprint card. The officer we are talking about is Tony R. Luker of the Dothan Police Department

9. We ask that the Henry County Sheriff, Lawton E. Armstrong, provide me with a copy of the law that deputizes deputies. Also, to provide me with a copy of all cases Tony R. Luker has worked in Henry County.
10. I ask that you provide me with a copy of payroll checks for the time Tony R. Luker worked for the Henry County Sheriff's Department, or any checks given to him for any reason, along with the copy of the reason it was written. I also ask for any and all receipts that he gave the Henry County Sheriff's Department for any reason, at any time. We also ask for a list (continued)

10. (continued) of complaints made against Tony R. Luker at any time he was working for the Henry County Sheriff's departments. we also ask for a list and a criminal background check on Tony R. Luker from the time he was deputized.
11. We also ask the sheriff of Henry County to give me (Ralph Lingo) a Typed letter to name each one of his deputies and investigators on 04-14-2003, that were at Ralph Lingo's home
12. I am also requesting a copy of the search warrant and affidavit to support the Search warrant, and a content List.

13. We ask that you give a written statement stating that you gave Tony R. Luker the authority to go to Henry County and search Ralph Lingo's home. (or anyone else of the Dothan city Police Department)

14. Would the Henry County Sheriff's Department be liable for any damages caused by Tony R. Luker any time he was in your county to arrest someone or to do a search of property without a Henry County deputy present. I ask for a written statement from Lawton Ed. Armstrong, and for it to be notarized. We ask for this within 30 days.

We ask Sheriff Armstrong to meet our request under a court order. It will be used during trial



COUNTY OF Houston. CASE NO: CC-2003-000.599

COUNTY

CASE NO: CC-2003-1339

CASE NO: CC-2003-1340

Defendant, Ralph Lingo, asks for these documents for his defense during his trial. We ask Judge White to sign this under a court order. Signature \_\_\_\_\_

Stamp and sign by Henry County clerk of court

Sign \_\_\_\_\_ stamp

Date \_\_\_\_\_ time \_\_\_\_\_

Sheriff of Henry County Lawton Ed Armstrong

Sign \_\_\_\_\_ Stamp of Sheriff seal

Date \_\_\_\_\_ time \_\_\_\_\_

Mail back to Houston County clerk's office to Judy Byrd.

P.O. drawer 6406 Dothan, AL 36302

Judy Byrd

Sign \_\_\_\_\_ Stamped seal of court

Date \_\_\_\_\_ time \_\_\_\_\_

Dependent Name, Ralph Lingo date, 9-21-2004

MISS LUDY BYRD Will you STALPE EACH PACKET  
FOR ME THE SHERIFF Will NOT STALPE this  
FOR ME, he is BEING REAL hard ON the  
IN MARC times I had NO ways to STALPE  
this, Will you BLESS STALPE this  
BLESS BLESS.

9-21-2004  
Ralph Leigo

GYPSY ETHRIDGE  
CIRCUIT CLERK OF HENRY COUNTY HENRY  
COUNTY COURTHOUSE  
101 COURT SQUARE, SUITE J  
ABBEVILLE, ALABAMA 36310-2135

CIRCUIT CLERK OF HENRY COUNTY  
HENRY COUNTY COURTHOUSE  
CLERK SEAL stamp  
and give to the SHERIFF'S  
Lawton Ed ARMSTRONG

HENRY COUNTY  
SHERIFF'S DEPARTMENT  
101 W. Court Square Suite G  
Abbeville, AL 36310

SEAL stamp FROM SHERIFF'S

ALL CLERK OFFICE SEAL stamp

9-23-2004

To any Circuit Judge - CASE ON:

I Ralph Lingo Am praying to the court to grant an order for medical attention. ON Sept 23, 2004 at approximately 9:00 AM I was Assaulted by 90 William of the Houston Co. Jail. I have request to the Houston Co. Jail for medical Attention, in which I was given 2 Tylenol. My Head was Assaulted with 4 powerful Blows which has resulted in severe Tooth and Gum pain, along ~~with~~ with Jaw and Neck pain. My Shoulder and complete Back has acute pain also. After being Assaulted by the 90's fist, I was knocked to the floor, repeatedly kicked and hit with fist and feet after being handcuffed. Also I was choked to the point of unconsciousness. Judge I have requested an Investigation and possible criminal charge in which they all have laughed and humiliated me. Judge there was no cause whatsoever for any of this to occur. Again I pray that you will at least look into this matter so I Am in great pain. Please Help as soon as possible.

**FILED**

SEP 27 2004

Judy Byrd  
JUDY BYRD, CLERK  
HOUSTON CO., AL

Ralph Lingo 9-23-2004  
Time: 9:00 p.m.

1-2

97

SERIAL Number - 11133 44 1818

To Doug Valeska,

I, Ralph Lingo, ask you for an investigation of the Houston County jail. They had a cell search on 09-23-04, in M Pod, and instructed everyone to face the day room wall, spread Eagle style. We were told not to turn our head or we would be sprayed with mace and thrown on the ground. The search began, and they entered my cell, M-18. They said, and I quote "your damn rooms will be fucked up when you return." While I was still facing the wall as I was told, I asked them to please not destroy my legal work. An officer then struck me in the head with his fist four times, then grabbed me by my neck choking me, while other officers grabbed my legs. I passed out. When I came to a few seconds later, I was handcuffed, and officers were kicking me in the ribs. Then the officer back, and slammed his knee into my back.

Ralph Lingo

Noted 1/11/06

Serial Number - 111 33 44 1818

When the search was over, they all laughed about it, and said, quote "That is a sample of what happens when the task force comes for you." I had already had a problem with my teeth, and have been repeatedly refused medical attention. Now, after this incident, one of my teeth is loose and badly bleeding. There is a sharp pain in my back and arm. I have asked for emergency medical attention and have been refused. I would like you as district attorney to investigate these actions and turn it over to a state and federal investigator. I would like to file a warrant on the officer who attacked me. I would like a court order to examine the video tape of the M Pod Hallway security cameras from 8:00 a.m. to 10:00 a.m. on 09-23-04.

(Office Williams)  
Rafael Lugo 9-23-2004

CIRCUIT CLERK OF HENRY COUNTY HENRY  
COUNTY COURTHOUSE CLERK SEAL stamp  
and give to the SHERIFF'S  
Lawton Ed ARMSTRONG

HENRY COUNTY SHERIFF'S DEPARTMENT  
101 W. Court Square Suite G  
Abbeville, AL 36310

SEAL stamp FROM SHERIFF'S  
ALL CLERK OFFICE SEAL stamp

**FILED**

SEP 23 2006

*Judy Byrd*  
JUDY BYRD, CLERK  
HOUSTON CO., AL



Case No: CC-2003-000.599

Case No: CC-2003-1339

Case No: CC-2003-1340

Ralph Lingo

-US-

State of Alabama  
in the County of Houston County

I, Mr. Ralph Lingo, ask the Circuit Court of Houston County for the following subpoenas, These documents, These documents are for the Henry County Sheriff Department to reply to all requests and documents.

I, Ralph Lingo, ask the Circuit Court of Houston County for the following subpoenas. We ask for all of the requests to be met under a court order before my trial. We ask that there be no trial until these requests are met for my defence. AND We ask for two weeks to examine these records before my trial. We ask the Judge to grant Ralph Lingo these requests and no attorney can waive this.

ALL CLERK OFFICE SEAL Stamp

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I'm also requesting the dispatch log sheets, all transcripts, all radio transmissions from Troy Silva to dispatch and from dispatch to Troy Silva. (Investigator) with the Henry County Sheriff Department. I only request for the time and dates above.

2. I'm also requesting a Background check (criminal) from N.C.I.C. and the F.B.I. I would also request a work report of Troy Silva (Investigator) with the Henry County Sheriff's Department.
3. I am requesting dispatch log on the radio on 04-14-2003, 05-07-2003, 05-17-2003.
4. I am requesting any Alabama Uniform arrest reports from two years back up until today's date, or any type of report or any statement
5. I am requesting any type of report, criminal or otherwise, done by any Henry County Sheriff's Department personnel from three years back to present date

6. I ask of the Henry County Court to furnish me with a log sheet of each Judge on 04-14-2003
7. We ask for dispatch log sheet, on 04-14-2003 and 05-07-2003 from 6:00 a.m. to 6:00 p.m.
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9. we ask that the Henry County Sheriff, Lawton Ed Armstrong, provide me with a copy of the law that deputizes deputies. Also, provide me with a copy of all cases Tony R. Luker has worked in Henry County.
10. we ask that you provide me with a copy of payroll checks of the time Tony R. Luker worked for the Henry County Sheriff's Department or any check given to him for any reason. and a copy of the reason it was written. also with any receipt that he gave the Henry County Sheriff's Department for any reason, at any time. we also ask for a list (continued)

10. (continued) of complaints made against Tony R. Luker at any time he was working for the Henry County Sheriff's Department. We also ask for a list and a criminal background check on Tony R. Luker from the time he was deputized.
11. We also ask the sheriff of Henry County to give Ralph Lingo a typed letter to name each one of his deputies and investigators on 04-14-2003 that was at Ralph Lingo's home.
12. I am also requesting a copy of the search warrant and affidavit to support the search warrant, and a content list.

13. We ask that you Give a written statement stating that you gave Tony R. Luker of the Dothan City Police Department, or any one else the Authority to go to Henry County and Search Ralph Lingo's Home.

14. Would the Henry County Sheriffs Department be liable for any damages caused by Tony R. Luker any time he was in your County to arrest someone or to do a search of property without a Henry county deputy present. I ask for a written statement from Lawton Ed. Armstrong and it to be notarized. I ask for this within 30 days.

We ask Sheriff Armstrong to meet our request under a Court order. It will Be used during trial

COUNTY OF Houston  
COUNTY

CASE NO: CC-2003-000.599

CASE NO: CC-2003-1339

CASE NO: CC-2003-1340

Defendant, Ralph Lingo, asks for  
these documents for his defense during  
his trial. We ask for Judge White to sign this  
Under a court order SIGNATURE \_\_\_\_\_

Stamp and sign by Henry county  
clerk of court

Sign \_\_\_\_\_ stamp of court seal  
Date \_\_\_\_\_ time \_\_\_\_\_

Sheriff of Henry county Lawton Ed Armstrong  
Sign \_\_\_\_\_ stamp of Sheriff seal  
Date \_\_\_\_\_ time \_\_\_\_\_

Mail back to Houston county clerks  
office : Judy Byrd  
P.O. drawer 6406  
Dothan, AL 36302

Dependent Name, Ralph Lingo date: 9-21-2004



GYPSY ETHRIDGE  
CIRCUIT CLERK OF HENRY COUNTY  
HENRY COUNTY COURTHOUSE  
101 Court Square, Suite J  
Abbeville, Alabama 36310-2135

Case No: CC-2005-000599

109

Case No: CC-2003-1339

Case No: CC-2003-1340

Ralph Lingo

- US -

State of Alabama

in the county of Houston county

I, Mr, Ralph Lingo, ask the circuit of Houston County for the following subpoenas, These documents, These documents are for the Henry county Sheriff Department to reply to all requests and documents,

I, Ralph Lingo, ask the circuit court of Houston County for the following subpoenas. We ask for all of the requests to be met under a court order before my trial. We ask that there be no trial until these requests are met for my defence, AND we ask for two weeks to examine these records before my trial. We ask the Judge to grant Ralph Lingo these requests and no attorney can waive this,

**FILED**

SEP 23 2004

*Judy Byrd*

JUDY BYRD, CLERK  
HOUSTON CO., AL

ALL CLERK OFFICE SEAL Stamp

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I'm Also requesting the dispatch Log sheets, All transcripts, All radio transmissions from Troy Silva to dispatch And From dispatch to Troy Silva, (Investigator) with the Henry County Sheriff Department. I only request from time And date's Above.

2. I'm Also requesting A background Check (Criminal) from N.C.I.C And the FBI. I would Also request A work Report of troy Silva (Investigator) with the Henry County Sheriffs Department.
3. I Am Requesting Dispatch Log on the Radio, on 4.14.2003, 5.7.2003, 5.17.2003.
4. I Am Requesting Any Alabama Uniform Arrest reports from today's Date Back two years, or Any type of report or Any statement.
5. I Am Requesting Any type of Report Criminal or otherwise done by Any Henry County shefffs department personell from now to three years Back.

6. I ASK of the Henry County Court to Furnish me with A Log Sheet of each Judge, on 4.14.2003.

7. We ASK For dispatch Log sheet, on 4.14.2003 And 5.7.2003. From 6:00 AM to 6:00 PM.

8. We ASK that Henry County Sheriff Lawton Ed ARMstrong, to provide me with A copy of A Liability Bond. And A workmanship Liability Bond. And It needs to be stamped By the Circuit Court Clerk, (Gypsy Ethridge) From the Date he was deputized. We Also ASK for A copy of Any paperwork, From the time he was being deputized. All Applications, All pictures, copy of fingerprint card. The officer we Are talking About is tony R. Luker of the Dothan Police Department.

9. We ASK that the Henry County Sheriff Lawton Ed. Armstrong, to provide me with A copy of the Law that deputizes deputies. Also, provide me with A copy of all case Tony R Luker has worked in your County, Henry County.
10. We ASK that you provide me with A copy of payroll checks, of the time Tony R Luker worked for the Henry County Sheriffs department, or Any check given to him for Any Reason, And A copy of the reason it was written. Also with Any receipt that he gave the Henry County Sheriffs department for Any Reason, At Any time. We Also ASK for A List

continued of complaints made Against tony R. Luker At Any time he was working for the Henry County Sheriffs department. We Also Ask for A List And A criminal Background check on tony R. Luker, from the time he was deputized.

11. We Also Ask the Sheriff of Henry County to give Ralph Lingo A typed Letter, to name each one of his deputies or investigators on 4.14.2003, that was A Ralph Lingo's Home.
12. I Am Also requesting A copy of the search warrent in Affidavit to support the search warrent. And A content List.



13. We Ask that you give A written statement, stating that you gave tony R Zuker the Authority to go to henry county And search Ralph Lingo's Home. (Tony Luker of Dothan city Police Department), or Anybody Else.

14. would the Henry county Sheriff's Department be Liable for Any damages caused by Tony R Luker Any time he was in your county to Arrest someone or to do A search of property without A Henry County Deputy present. We Ask for A written statement from Lawton Ed Armstrong And it to be notarized. We Ask for this within 30 days

We Ask Sheriff Armstrong to meet our Request under A court order. It will be used during trial.

COUNTY OF H. STON

COUNTY

CASE NO: CC-2003-000,599

CASE NO: CC-2003-1339

CASE NO: CC-2003-1340

Defendant, Ralph Lingo, asks  
for these documents for his defense  
during his trial. We ask for Judge White  
To sign this under a court order.

Signature: \_\_\_\_\_

Stamp and sign by Henry County  
clerk of court.

Sign \_\_\_\_\_ Stamp

Date \_\_\_\_\_ time \_\_\_\_\_

Sheriff of Henry County Lawton Ed  
Armstrong

Sign \_\_\_\_\_ Stamp of Sheriff seal

Date \_\_\_\_\_ time \_\_\_\_\_

mail back to Houston County Clerk's  
office to: Judy Byrd

P.O. Box 6406

Dothan, AL 36302

This copy is to be returned to Ralph  
Lingo, ALL CLERK OFFICE SEAL Stamp,  
dependent Name. Ralph Lingo date, 9-21-2004

GYPSY ETHRIDGE  
CIRCLER OF HENRY COUNTY HENRY  
COUNTY COURT HOUSE  
101 COURT SQUARE, SUITE J  
ABBEVILLE, ALABAMA 36310-2135

CIRCUIT CLERK OF HENRY COUNTY  
HENRY COUNTY COURT HOUSE  
CLERK SEAL stamp and give to the  
SHERIFF'S Lawton Ed ARMSTRONG

HENRY COUNTY SHERIFF'S DEPARTMENT  
101 W. Court Square Suite G  
Abbeville, AL 36310

SEAL stamp FROM SHERIFF'S

ALL CLERK OFFICE SEAL stamp

Case No: CC-03-599, CC-03-1339, CC-03-1340

Mr. Ralph Lingo

-VS-

State of ~~a~~labama in the county of  
Houston County

I, Mr. Ralph Lingo, ask the circuit  
Court of Houston County for the  
following subpoenas. These documents  
go to the city of Dothan Police  
Department for documents to be  
answered and divided to. We want  
copies of all documents. We ask for  
a court order for these documents.

**FILED**

SEP 23 2004

*Judy Byrd*

JUDY BYRD, CLERK  
HOUSTON CO., AL

ALL CLERK OFFICE SEAL stamp.

1. I'm requesting all dispatch log sheets, transcripts, radio calls from dispatch to police units, and police units to dispatch, all phone records, cellular phones also. All police reports and statements from the following police departments on 04-14-2003, 05-07-2003, from 6:00 A.M. to 6:00 P.M. from Tony R. Luber.
2. on 04-14-2003, I want a copy of Alabama Uniform Arrest Report from each Investigator and each police officer who went to Abbeville, of Henry County to the home of Ralph Lingo and any other type of form that has been filled out.
3. I want a list of everyones name who went to Ralph Lingos house.
4. I want a copy of radio transcripts and log sheets from each police officer and investigator plus any type that has been filled out.

5. We ask for a copy of the search warrant and the affidavit to support the search warrant and we ask Tony R. Luker to provide a copy of a liability bond or a copy of a workmanship liability bond or any other type of bond to work outside the city limit territory or to work outside of Houston County territory since 1991, or to work in Henry County. If you hold any type of liability bond It must be stamped by Gypse Etheridge, circuit clerk of Henry County, since the day you have got deputized. It must show on record in Henry County by Gypse Etheridge, circuit clerk of Henry county. We ask for all liability bonds by Henry county to allow Tony R. Luker to work in Henry County.

6. ON 5-7-2003, from 6:00 A.M. to 6:00 P.M., we ask for a copy of all dispatch log and transcript from each Unit to respond to the arrest of Ralph Lingo from the City of Dothan Police Department to Headland of Henry County. We want each officer's name and a copy of radio transcripts and log sheet.

7. ON 5-7-2003 the police officer went to Henry County from the City of Dothan to pick up Ralph Lingo. He was pulled over by City of Dothan Police Officer, unmarked car of Tony R. Luker and State Fire Marshall Todd Register. Tony Luker radioed back to the City of Dothan Police Department and the City of Dothan came to Headland. One of the police officers in uniform handcuffed Ralph Lingo, put him in the back of the police car and transferred him from Headland of Henry County to the City of Dothan Jail in Houston County. (continued on next page)



7. cont.

I want the officers name and badge number, And copy of the liability bond to go outside the county.

I want a copy of all police reports from the officer, and all Alabama Uniform arrest Report and I want the city of Dothan to provide me with a copy of the city of Dothan territory limits. I'm asking for all of this in the next 30 days. I'm asking for the city of Dothan to furnish all reports we have asked for. More reports may be asked for at a later date during the investigation.

8.

On 5-7-2003, I asked the City of Dothan Jail to provide me a copy of the tape on security camera of the time of 12 p.m from arrival from the time I got out of the police car and from the time I went into the City Jail. I want the camera system inside docket and docket room. I want the camera of hallway through the Jail

8. (cont.) I want the camera system for 72 hours from the time I was there to the time I left. I want the time I was booked in to show the time I was standing at the window being booked. I also want the camera system inside the control room for 72 hours from 5-7-2003. I also want camera system from inside and outside the Jail on 4-14-2003 from 6:00 a.m. to the last 15 days of recording.

9. We ask for all cassette tape be transcribed. We would also ask to listen to every tape after it is transcribed.

10. James H. Johnson, 1305 Fleetwood Rd. Dothan, AL 36303. We want to listen to all recorded statements given to the city of Dothan and all Police reports given to Tony R. Luker of each time.

11. We want every phone call from Debra Blackstone, 402 Emmons dr. Dothan, Al. 36301 to the city of Dothan dispatch requesting a police unit be sent to her address in the last four years. we ask for a copy of all all tapes from this address. we ask for all police reports taken from this address for the last four years. Also for all Alabama Uniform Arrest Reports and all radio calls from police unit to dispatch and from dispatch to police unit.
12. I want a criminal background check with the F.B.I. and your local Police department on Thomas Richard Spradlin S.S. number 260-96-0298.
13. we want all police reports from James H. Johnson 1305 Fleetwood Rd. Dothan, Al. 36303, or Ralph Lingo from the same address. we want all Alabama Uniform Arrest reports and any other police report that was filled out from this address.

13. (cont.) we also want all dispatch log sheets in the last four years from this address and all tapes from this address.
14. we also want all local police reports, Taylor Police reports, + County Police reports from Steve Anderson at 1720 Bruner RD. Lot D Dothan, AL. 36301. and all recorded statements, all police reports logged from the city of Dothan and a criminal background check from your local police Department and the F.B.I.
15. we also want a criminal background check on Scott A. Casper S.S.N. 264-80-5523 with your local police Department and the F.B.I., along with a credit report. with both companies.
16. I want a local and F.B.I and a credit report by both credit companies for Vonda Sue Williams SSN 233-84-7456

17. We ask for the city of Dothan Police Department to respond to all request in 30 days and we are asking for the court for a court order for all these answered and copied of all documents for Ralph Lingo defense. These are very important to Ralph Lingo's trial. more documents might be asked for during these investigations.

Stamp by Judy Byrd, court seal

COUNTY OF Houston CASE NO: CL-2003-000, 599  
COUNTY CASE NO: CC-2003- 1339  
CASE NO: CC-2003- 1340

128

I ask that Judge White sign  
and stamp all these documents.

Signature \_\_\_\_\_ Date \_\_\_\_\_

Stamp of seal

city clerk

P.O. Box 2128

Dothan, Al. 36302-2128

Signature \_\_\_\_\_ Date \_\_\_\_\_

Stamp of seal

RETURN BACK to Judy Byrd

Judy Byrd

circuit clerk

District court clerk

P.O. Drawer 6406

Dothan, Al. 36302

Signature \_\_\_\_\_ Date \_\_\_\_\_

Stamp of seal

depenent Name. Raph Lingo, Date: 9-21-2004  
ALL CLERK OFFICE SEAL Stamp.

City of Dothan CLERK OFFICE POLICE  
Dept p.o BOX 2128

Dothan, Alabama 36302-2128

Case no: CC-03-599, CC-03-1339, CC-03-1340

Mr. Ralph Lingo

-v-s-

State of Alabama in the County of  
Houston County.

I, Mr. Ralph Lingo, ask the circuit  
Court of Houston County for the following  
subpeonas. These documents go to City of  
Dothan Police Departments for documents to  
be answered and divided to. We want copies  
of all documents. We ask for a court order  
for these documents.

**FILED**

SEP 23 2004

*Judy Byrd*  
JUDY BYRD, CLERK  
HOUSTON CO., AL

ALL CLERK OFFICE SEAL stamp. this is  
Ralph Lingo copy go back to him



1. I'm requesting all dispatch log sheets, transcripts, radio calls from dispatch to police units, and police units to dispatch. All phone records, cellular phones also. All police reports and statements from the following police departments on 04-14-2003, 05-07-2003, from 6:00 A.M. to 6:00 p.m. from Tony R. Lurker.
2. On 04-14-2003, I want a copy of Alabama Uniform arrest Report from each Investigator and each police officer who went to Abbeville, of Henry County to the home of Ralph Lingo and any other type of form that has been filled out.
3. I want a list of everyones name who went to Ralph Lingo's house.
4. I want a copy of radio transcripts and log sheets from each police officer and investigator plus any type that has been filled out.

5. We ask for a copy of the search warrant and the affidavit to support the search warrant and we ask Tony R. Luker to provide a copy of a liability bond or a copy of a workmanship liability bond or any other type of bond to work outside of Houston County territory or outside the City Limit territory since 1991, or to work in Henry County. If you hold any type of liability bond it must be stamped by Gypse Etheridge, Circuit clerk of Henry County, since the day you have got deputized. It must show on record in Henry County by Gypse Etheridge, Circuit Clerk of Henry County. We ask for all liability bonds by Henry County to allow Tony R. Luker to work in Henry County.

6. On 5-7-2003, from 6:00 A.M. to 6:00 P.M., we ask for a copy of all dispatch log and transcript from each unit to respond to the arrest of Ralph Lingo from the City of Dothan Police Department to Headland of Henry County. We want each officers name and a copy of radio transcripts and log sheets.
7. On 5-7-2003 the police officer went to Henry County from the City of Dothan to pick up Ralph Lingo. He was pulled over by City of Dothan police officers, unmarked car of Tony R. Luker and state fire marshall Todd Register. Tony Luker radioed back to the City of Dothan Police Department and the City of Dothan came to Headland. One of the police officers in uniform handcuffed Ralph Lingo, put him the back of the Police car and transferd him from Headland of Henry County to the City of Dothan Jail in Houston County. I want the officers name and badge number, and a copy of the liability bond to go outside the County. I want a copy of all police reports from the officer, and all Alabama Uniform arrest reports

7. And I want the city of Dothan to provide me with a copy of the City of Dothan territory limits. I'm asking for all of this in the next 30 days. I'm asking for the City of Dothan to furnish all reports we have asked for. More reports may be asked for at a later date during the investigation.

8. On 5-7-2003, I asked the City of Dothan Jail to provide me a copy of the tape on security camera of the time of 12pm. from arrival from the time I got out of the police car and from the time I went into the City Jail. I want the camera system inside docket and docket room. I want the camera of hallway through the Jail. I want the camera system for 72 hours from the time I was there to the time I left. I want the time I was booked into show the time I was standing at the window being booked. I also want the camera system in side the control room for 72 hours from 5-7-2003. I also want the camera system from inside and outside the Jail on 4-14-2003 from 6:00 AM. to the last 15 days of recording.

9. We ask for all cassette tape be transcribed. We would also ask to listen to every tape after it is transcribed.
10. James H. Johnson, 1305 Fleetwood Rd. Dothan, AL 36303. We want to listen to all recorded statements given to the City of Dothan and all police reports given to Tony R. Laker of each time.
11. We want every phone call from Debra Blackstone 402 Emmons Dr. Dothan, AL 36301 to the city of Dothan dispatch requesting a police unit to be sent to her address in the last four years. We ask for a copy of all tapes from this address. We ask for all police reports taken from this address for the last four years. Also for all Alabama uniform arrest reports and all radio calls from police unit to dispatch and from dispatch to police unit.
12. I want a criminal background check with the F.B.I and your local police Department on Thomas Richard Spradlin S.S. number 260-96-0298

13. We want all police reports from James H. Johnson 1305 Fleetwood Rd. Dothan, AL 36303, or Ralph Lingo from the same address. We want all Alabama uniform Arrest reports and any other police report that was filled out from this address. We also want all dispatch log sheets in the last four years from this address and all 911 tapes from this address.

14. We also want all local police reports, Taylor police reports, and county police reports from Steve Anderson at 1720 Bruner Rd. Lot D Dothan, al. 36301. All recorded statements, all police reports logged from the city of Dothan and a criminal background check from your local police Department and the F.B.I.
15. We also want a criminal background check on Scott A. Casper ssn 264-80-5523 with your local police Department and the F.B.I, along with a credit report
16. I want a local and F.B.I report, and credit report for Vonda Sue Williams ssn 233-84-7456

17. we ask for the city of Dothan Police Department to respond to all requests in 30 days and we are asking for the court for a court order for all these answered and copied of all documents for Ralph Lingo's defense. These are very important to Ralph Lingo's trial. More documents may be asked for.

Stamp by Judy Byrd, clerk of court.



COUNTY OF HOUSTON

CASE NO: CC-2003-000.599<sup>139</sup>

COUNTY

CASE NO: CC-2003-1339

CASE NO: CC-2003-1340

I ask That Judge White sign and  
stamp all these documents.

Signature:

Date

Stamp of seal

City clerk

P.O. Box 2128

Dothan, AL 36302-2128

Signature:

Date

Stamp of seal

RETURN Back to Judy Byrd

Judy Byrd

circuit clerk

District Court clerk

P.O. Drawer 6406

Dothan, AL 36302

Signature:

Stamp of seal

Date

CITY OF Dothan CLERK OFFICE police  
Dept P.O. Box 2128

Dothan, Alabama 36302-2128

MISS LUDY BYRD Will you staLpE EAch  
PACKEt for me the ShERiFF Will not  
staLpE this for me, he is being  
REAL hard ON the INMARctimies  
I had NO ways to staLpE this, Will you  
BLESS staLpE this BLESS.

Raph Lingo  
9-21-2004

State of Alabama  
Unified Judicial System  
Form C-12 REV. 10/86

1. Plaintiff State of Alabama V. Defendant: Ralph Lingo  
IN THE HOUSTON COUNTY COURT OF HOUSTON

☒ Defendant

Date: 9-27-2004

CASE NUMBER  
2003-000-599.60  
1339  
1340

142

\* (1)  
#4  
nd 10/22/04

James H. Johnson  
1305 Fleetwood Road  
Dothan, AL 36303

**FILED**

SEP 28 2004

Judy Byrd  
JUDY BYRD, CLERK  
HOUSTON CO., AL

\* (2)  
#5  
ssued 10/22/04

Steve Anderson 1720 Bruner  
Road Lot 0 Dothan, AL 36301

\* (3)  
#4  
ssued 10/22/04

Suanita Tice  
402 Emmons Drive Dothan, AL 36301

\* (4)  
#7  
ssued 10/22/04

JENNIFER STEEVER AGENCY  
3123 WESLEY WAY  
Dothan AL 36305-2020

\* (5)  
#8  
ssued 10/22/04

Jason Lurie  
104 Holiday Ct Dothan AL, 36301

6. SERGEANT BONIN C/O  
901 E. Main St Dothan 36301

7. Cheryle DeLane Motley  
117 E. main St, Dothan AL. 36301

(COPY BACK to Ralph Lingo)  
(CFR 1-11.10)

(1.)

State of Alabama

Unified Judicial System

CASE NUMBER  
2003-000-599.60

1339.

1340 113

F-1 C-12 Rev. 10/86 SUBPOENA REQUEST FORM

State of Alabama V. Defendant: Ralph Lingo

☒ Defendant. Date: 9-27-2004

IN THE HOUSTON COUNTY COURT OF HOUSTON COUNTY ALABAMA

8. Rose Evans Gordon Municipal

Judge P.O. Box 398

CITY OF DOTHAN, AL 36302

9. Paula Little Dothan AL.

P.O. Box 6406

10. Judges JERRY W White

P.O. Drawer Dothan AL

6406-36302

~~Copy~~

(1) Larry K. Anderson

Dothan P.O. Drawer

Zip 6406-36302

2. S. E. Edward Jackson

P.O. Drawer Dothan AL, 36302

Zip 6406-3602

3. Judy C. Byrd P.O. Drawer 6406, 36302  
Dothan ALCOPY BACK to Ralph Lingo  
SEAL Stamp

State of Alabama

Unified Judicial System

Form C-12 REV. 10/86 SUBPOENA REQUEST FORM

IN THE HOUSTON COUNTY COURT OF HOUSTON COUNTY, ALA.

CASE NUMBER

2003-000-599,60

1339

1340

114

4. Charles W Woodhorn  
101 W. Court Sq. Ste  
HENRY COUNTY Abbeville Zip 36310

5. GYPSEY THRIDGE  
HENRY COUNTY 101 Court Square  
Suite J Abbeville AL Zip 36310-2135

\* #9  
issued 10/2/04  
6. Donald GREEN. 1305 FIFTH Wood Dothan AL  
ALIVE Zip 30301

7. Melissa Woods Staff Assistant  
Dothan Municipal Court  
City Dothan AL Zip 36302-2128

8. LAWTON ED ARMSTRONG Sheriff  
101 West Court Square Abbeville.  
HENRY COUNTY AL Zip 36310

10  
\* #9  
issued 10/2/04  
9. TROY SILVA Investigator  
HENRY COUNTY SHERIFF'S  
101 W. Court Square Suite Abbeville Zip 36310

10. VONDA SUE WILLIAMS 10666 Highway 431 South  
HENRY COUNTY Headland Zip 36345

COPY BACK to RATH LING. (CEAD stamp)

State of Alabama  
Unified Judicial System

C-12 Rev. 10/86

## SUBPOENA REQUEST FORM

CASE NUMBER  
2003-000-599.60  
2003- 1339  
2003- 1340IN THE HOUSTON OF COUNTY COURT OF HOUSTON COUNTY, ALABAMAPlaintiff: State of Alabamav. Defendant: Ralph Lingo

In the matter of \_\_\_\_\_

Court Date \_\_\_\_\_ Court Time \_\_\_\_\_ AM/PM Date Requested \_\_\_\_\_

## TO BE COMPLETED BY REQUESTER

The Clerk/Register is requested to issue an Order to Appear (Subpoena) for each of the following witnesses for:

☐ Plaintiff/State ☒ Defendant ☐ Grand Jury ☐ Other

	Name	Address	Zip	Date issued	Date Executed	Remarks
1.	<u>Larry K. Anderson</u>	<u>Dothan P.O. Drawer</u>	<u>6406-36302</u>	<u>9-27-2004</u>		
2.	<u>S. Edward Jackson</u>	<u>P.O. Drawer Dothan AL</u>	<u>6406-3602</u>	<u>9-27-2004</u>		
3.	<u>Judy C. Byrd</u>	<u>P.O. Drawer</u>	<u>Dothan Zip 6406-3602</u>	<u>9-27-2004</u>		
4.	<u>Charles W. Woodham</u>	<u>101 W. Court Sq. Ste</u>	<u>HENRY COUNTY Abbeville Zip 36310</u>	<u>9-27-2004</u>		
5.	<u>GYPSY THRIDGE</u>	<u>HENRY COUNTY 101 Court Square</u>	<u>Suite J Abbeville AL Zip 36310-2135</u>	<u>9-27-2004</u>		
6.	<u>Donald GREEN</u>	<u>Dothan AL 1305 PLETHWOOD</u>	<u>DRIVE Zip 36301</u>	<u>9-27-2004</u>		
7.	<u>Melissa Woods Staff Assistant</u>	<u>Dothan Municipal Court</u>	<u>City Dothan AL Zip 36302-2128</u>	<u>9-27-2004</u>		
8.	<u>LAWTONED ARMSTRONG Sheriff</u>	<u>101 West Court Square Abbeville,</u>	<u>HENRY COUNTY AL Zip 36310</u>	<u>9-27-2004</u>		
9.	<u>TROY SILVA Investigator</u>	<u>HENRY COUNTY SHERIFF'S</u>	<u>101 W. Court Square Suite B Abbeville AL 36310</u>	<u>9-27-2004</u>		
10.	<u>VONDA SUE WILLIAMS</u>	<u>10666 Highway 431 South</u>	<u>HENRY COUNTY Headland Zip 36345</u>	<u>9-27-2004</u>		

## METHOD OF SERVICE REQUESTED:

Party Requesting Subpoena

☒ Personal ☐ Other \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Requester Phone No. \_\_\_\_\_



State of Alabama  
Unified Judicial System

C-12 Rev. 10/86

## SUBPOENA REQUEST FORM

CASE NUMBER  
2003-000599.60  
2003-1339  
2003-1340IN THE COUNTY OF HOUSTON COURT OF HOUSTON COUNTY, ALABAMAPlaintiff: State of Alabamav. Defendant: Ralph Lingo

In the matter of \_\_\_\_\_

Court Date \_\_\_\_\_ Court Time \_\_\_\_\_ AM/PM Date Requested \_\_\_\_\_

## TO BE COMPLETED BY REQUESTER

The Clerk/Register is requested to issue an Order to Appear (Subpoena) for each of the following witnesses for:

☐ Plaintiff/State ☒ Defendant ☐ Grand Jury ☐ Other

	Name	Address	Zip	Date Issued	Date Executed	Remarks
1.	<u>James H. Johnson</u>	<u>1305 Fleet Wood Road</u> <u>Dothan, AL</u>	<u>36303</u>	<u>9-27-2004</u>		
2.	<u>Steve Anderson</u>	<u>1720 Bruner Road Lot D</u> <u>Dothan, AL</u>	<u>36301</u>	<u>9-27-2004</u>		
3.	<u>Juanita Tice</u>	<u>402 Emmons Drive</u> <u>Dothan, AL</u>	<u>36301</u>	<u>9-27-2004</u>		
4.	<u>JENNIFER STEEVER AGENCY</u>	<u>3123 WESLEY WAY</u> <u>DOTHAN AL</u>	<u>36305-2020</u>	<u>9-27-2004</u>		
5.	<u>Jason Lurie</u>	<u>104 Holiday Ct.</u> <u>DOTHAN, AL</u>	<u>36301</u>	<u>9-27-2004</u>		
6.	<u>SEARGENT BONIN C/O</u>	<u>901 E. Main St.</u> <u>Dothan, AL</u>	<u>36301</u>	<u>9-27-2004</u>		
7.	<u>Cheryle DeLane Motley</u>	<u>117 E. Main St. Dothan, AL</u>	<u>36301-0000</u>	<u>9-27-2004</u>		
8.	<u>Rose Evans-Gordon Municipal</u>	<u>Judge P.O. Box 398</u> <u>CITY OF DOTHAN, AL</u>	<u>36302</u>	<u>9-27-2004</u>		
9.	<u>Paula Little</u>	<u>Dothan AL</u> <u>P.O. Box 6406</u>		<u>9-27-2004</u>		
10.	<u>Judges JERRY W White</u>	<u>P.O. Drawer Dothan AL</u>	<u>6406-36302</u>	<u>9-27-2004</u>		

## METHOD OF SERVICE REQUESTED:

Party Requesting Subpoena

☒ Personal ☐ Other \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Clerk/Register

Requester Phone No \_\_\_\_\_



CASE ON: 2003-000,599,

1339,

1340,

Defendants Name: Ralph Lingo

**FILED**

SEP 28 2004

Dear: Judge White

*Judy Byrd*  
JUDY BYRD, CLERK  
HOUSTON CO., AL

I am filing a petition in court honorable Judge White. To have a hearing particularly about these search warrants. This is not a binding search warrant. This could be leading to fraud by the City of Bothan. I am asking for the judge to dismiss the search warrant, and charges. City police-officer Tony Luker is not holding a liability bond, and a police officer can not work in one county and work in another county.

I was arrested in Henry county by Tony Luker. But Tony Luker did not bring me back across the county line. You cannot have two search warrants. And a city police officer cannot cross county lines and pick you up, and bring you back. It was out of their territory, and had no Henry Co. Deputy present.

2) Date, 9-24-1

148

CASE: ON 2003-000, 599.<sup>00</sup>  
1339.  
1340

and no Abbeville police officer were present. You cannot go out of your territory to go looking for somebody to make an arrest. He suppose to have take to or call Henry Co. deputy. Let the Henry Co. deputy come out, and arrest me and take me to Henry Co. jail. When the Henry Co. deputy should have arrested me, he should have taken me to the closest Henry Co. jail. I have been trying for over one year to get a copy of the search warrant, and stamp by the clerk of court. I have filed over forty request to Houston Co. clerk, and Abbeville clerk. I also have sent payment, and the court has filed, and the clerk has stamped every document, and also has the City of Dathan saying, there was no search-warrant.

She also did a thorough investigation, about the search warrant, and warrant has not got a record. And Tony Luker cannot get a warrant magistrate to type a warrant outside her jurisdiction. And a judge cannot hold a search warrant it must be returned to the clerk of the court timed, signed, and stamped by the clerk of the court. I ask for this strictly for the search warrant and illegal arrest.

Ralph Luigo

Stamp seal clerk

149

Case No, 2003-000,599

1339  
1340

Defendants Name: Ralph Lingo

To: Judge White

Judge White the Houston Co. Jail, has had a shake down on Thursday. Half of my law papers were destroyed by C/O officers Britt. They told us to go downstairs puts our hands against the wall, and don't look back, or we would be spray, and beat to hell and back. C/O officer Britt said whoever is in cell 18 the papers here are torn up, and alot of them have been put in the toilet.

Now I do not have no part of any search-warrant. I need a copy of the search warrant. With my hands on the wall, I ask C/O officer Britt, please don't tear up my law work. The officer down stair call CRT, the officer told me "I said don't say a damn word didn't I", "Now turn around put your hands on the wall and look at me." He then hit me up side of the head with his bare fist, a total of 3 times. Then they all went to grabbing me.

They handcuffed me, and through me on the ground. And officer Williams tried to break my neck by twisting and turning and took my left side of my face down to the concrete.

And hit me right in the jaw and knocked 3 of my teeth loose, which will have to be pulled. And may have a cracked jaw and pulled disc in my back.

My mouth full of blood. When urinating I pass blood from intestine damage from a kick from officer Rodgers. (Correction Neck not Back).

And probably a tore Rotary cup is a possibility. After it was over with officer Rodgers went back playing basketball like he did the whole time of the shack-down. When they handcuffed me, I had blood running down my mouth real bad. I requested to go to the hospital. They refused me medical treatment, from 1:00pm took up to the nurse Mrs. Spigner. From 1-3 o'clock Mrs. Spigner could not stop the blood, see me, or give me anything because she was babysitting a 11-12 year old little kid. The kid was playing with the medication on 9-23-04, from 1-3 o'clock pull the video tape and watch and see what happens. She didn't give me any medical tension, until about 4 minutes till 3:00pm. The nurse not Mrs. Spigner, my bloodpressure, gave me 2 Tylenol and Oral-Zel and said they couldn't treat me for anything else.



go back to the dorm. Officer Rodgers, made a statement to me on 9-29-04-10-06-04 I will be on lock down. And you will not have any law or court paper we will tear them up. I've got about 25 signatures of people who seen, and heard everything. I'm asking you Judge White to sign a court order to Sheriff Lemar Glover. Do not take my law work away from me. Leave it in my possession at all times. It is my constitutional right I have asked Doug Valeska and the Chief Dist. Attorney to investigate it, and allow me to sign a warrant against the officer for hitting me with his fist that is assault.

Please respond back it is an emergency Judge White, and don't let them get my law work they done destroyed my search warrant and other legal documents. I ask for all cases be put off, due to injury caused C/O officers at the Houston Co. Jail. To given further notice. I all ready had an absense tooth, and could not get no medical help on that forget my neck exrayed and to sign a warrant. I ask for a court order.

Also other C/O officers said the officers were wrong for what the did and that

Case No - 2003-000-599  
1334  
1340

they had no right to do it. The name of the officer will have to be sealed. Because they will say anything to get fired. Lamar Glover will fire them. All you had to do, pull the video tape. No one will have to tell on anyone, it will show everything I did not resist, or move my hands.

I want a warrant on C/O officers William, and officers Rodgers. OR give me an emergency transfer back to Bullock Correctional where I can get Medical Attention. Also sign a court order where they can never take and destroy my law work like officer Britt did. Lacking me down with no bed, can cause more injury to me, I want a report but, no one will sign it or put a rule violation on there. Copy are being made for a later date. If you want a copy I will be happy to furnish you with all copies. I Need Medical Attention.

Rafael Lingo 9-24-2004

Case No - 1339 153  
Case No - 1340

To:  
Court House Clerk: Judy Byrd. Case No: 2003-000,599

Mrs. Judy Byrd, I ask  
could you send me a blank search -  
warrant, and a blank Affidavit application.  
Please, I would really appreciate  
it.

If you do have a search warrant,  
pop up on file would you please mail it  
to me. I have been trying to get one  
sent to me for over a year.

And everything I have filed in court on  
the above cases has been documented. I would  
love for you to figure up how much all of them  
cost that I have filed, and how many documents  
it is so I can send you the money. As soon as  
possible please. And please mail me a rule  
32.

Rahel Lingo 8-24-04

Date 10-6-2004

154

Mrs. Judy Byrd,

Will you please stamp each page by the  
Clerk of Court, And keep them on file. Case  
Number will be down below

CASE CC 2003 000 599, 00

CASE CC 2003 - 00 1340.00

CASE CC 2003 - 00 1339.00

Rafel Lingo Date 10-6-2004

**FILED**

OCT 07 2004

*Judy Byrd*  
JUDY BYRD, CLERK  
HOUSTON CO., AL



SEARCH WARRANT

(X) State of Alabama

( ) Municipality of The City of Dothan

Case Number: 02-007881

STATE OF ALABAMA  
Henry County

TO ANY LAW ENFORCEMENT OFFICER WITHIN THE STATE OF ALABAMA:

Affidavit in support of application for a search warrant having been made before me, and the Court's finding that grounds for the issuance exist or that there is probable cause To believe that they exist, pursuant to Rule 3.8, Alabama Rules of Criminal Procedure, you are hereby ordered and authorized to forthwith search:

THE FOLLOWING PERSON OR PLACE:

(1) **10666 Highway 431 South, Newville Alabama.** To further describe this property, it is located on what is known in the community as Hatfield Mountain. On this property is a wooden frame house, a singlewide mobile home and a doublewide mobile home. The doublewide mobile home is Lingo's office/residence. When entering the driveway, drive past the wooden frame house and the single wide mobile home to Lingo's doublewide mobile home which is light in color.

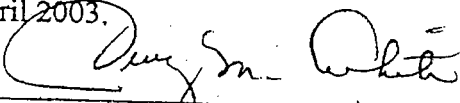
(2) A White 2001 Dodge Pick-up VIN 1B7KC23691J214346.

(3) Any and all safes located inside Lingo's office/residence.

FOR THE FOLLOWING PROPERTY: Hand Guns, Audio Tapes, Business Records pertaining to Lingo's Mobile Home Repair and make return of this warrant and an inventory of all property seized there under before me within 10 days (not to exceed 10 days) as required by law.

(X) The Court find probable cause to believe that a nighttime search is necessary, and this warrant may be executed nighttime search is necessary, and this warrant may be executed at any time of the day or night.

ISSUED TO: SGT TONY R. LUKER, Dothan Police Department, on this 14th day of April 2003.

  
JUDGE/MAGISTRATE

APPLICATION AND AFFIDAVIT FOR A NO KNOCK SEARCH WARRANT

56

Case Number 03-003058

STATE OF ALABAMA,  
HENRY COUNTY

2

Before me, Judge Denny M. White, the undersigned authority, personally appeared Sgt. Tony Luker, who being by me first duly sworn, deposes and says:

(1) I am Sgt. Tony Luker, of the Dothan Police Department. I am currently assigned to the Criminal Investigation Division as a Sergeant. I am also a State Certified Fire Investigator. The testimony contained in this affidavit is based on three independent witnesses, my personal knowledge and experience as set forth below.

(2) I have been employed with the City of Dothan Police Department for the past 19 years and have been involved in the investigation of several arsons and business fraud cases.

(3) I am investigating several cases involving Ralph Wilson Lingo for arson and theft of property by deception in both Houston and Henry County as well as in the States of Alabama, Georgia and Florida. This investigation is in conjunction with the State Of Alabama Fire Marshall's Office.

4) Ralph Lingo has an extensive Criminal History for the following charges: Assault Second Degree, Theft of Property Second Degree and Receiving Stolen Property Second Degree. He has been convicted of Arson Third Degree, Criminal Mischief Second Degree and Assault Third Degree. The Assault Third Degree was a conviction of a lesser included offense of Sexual Abuse First Degree.

(5) Lingo has business records, which are kept throughout the mobile home and in filing cabinets, which reflects contracts that he has altered and increased the amount owed to him. Lingo preys on the elderly and when they question the amount he threatens them into paying him. These records are located at Lingo's office/residence that is located at 10666 Highway 431 South in Newville Alabama. To further describe this property, it is located on what is known in the community as Hatfield Mountain. On the property there is a wooden frame house, a singlewide mobile home and a doublewide mobile home. The doublewide mobile home is Lingo's office/residence. When you enter the driveway of the residence, drive past the house and singlewide mobile home to the light colored doublewide mobile home of Lingo's.

(6) Lingo has also conspired with another individual in Luverne, Alabama to burn a trailer for insurance purposes. Lingo collected \$5,000.00 from this individual. Lingo has

made a taped conversation of him and this individual talking about the conspiracy, as well as directions to the trailer.

(7) There have been several taped conversations between Lingo and different individuals on criminal activity, which is kept at Lingo's office and in a safe.

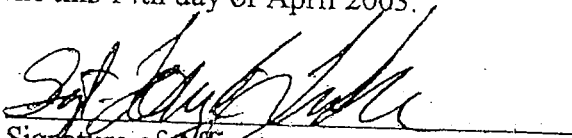
(8) This safe contains proceeds of Lingo's criminal activity, files, tapes and guns.

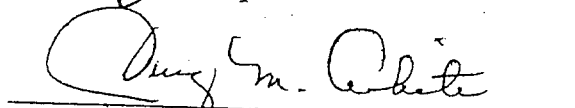
(9) Also located in Lingo's office/residence are several loaded weapons to include two 380 handguns located on each side of his bed in the bedroom. A 380 located next to a green recliner in the living room. A derringer on an end table in the living room. In the middle room of the mobile home are several shotguns and rifles.

(10) Lingo is also known to carry a handgun on his person or in his vehicle, a 2001 Dodge pick-up VIN 1B7KC23691J214346. Lingo uses this vehicle to facilitate his criminal activity.

Affiant shows that based on the above and forgoing facts and information, Affiant has probable cause to believe that the above described property is concealed upon the aforesaid premises, person, and vehicle and is subject to seizure and makes this affidavit so that a warrant may be issued to search said premises, person, and vehicle.

Sworn to and Subscribed before  
me this 14th day of April 2003.

  
Signature of Affiant  
Dothan Police Department

  
JUDGE/MAGISTRATE

RETURN AND INVENTORY

I certify that I executed the foregoing Search Warrant as directed by searching the person or place described at 10666 Highway 431 South, Newville Alabama, Any and all safes inside Lingo's office/residence and a White 2001 Dodge Pick-up VIN 1B7KC23691J214346, at approximately, 4:20 p.m. on the 14<sup>th</sup> day of April, 2003.

( ) Did not find and seize any property located thereon.

(x) Found and seized the following described property and made return of same to the Court at 7:00 o'clock (a.m./p.m.), April 16, 2003:

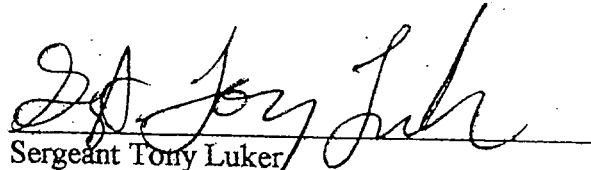
- (1) 1-Jennings Model #48 silver pistol Ser # 809158
- (2) 1-Jennings Model T38 black pistol Ser # 1422059
- (3) 1-Phoenix Arms Raven 25 Auto Ser #3095413
- (4) 1-5 Drawer File Cabinet w/assorted business files
- (5) 1-2 Drawer File Cabinet w/assorted business files
- (6) 1-Box w/3 1/2 Floppy Disk
- (7) Assorted Audio Tapes
- (8) Assorted Business Files on Metal Holder
- (9) 1-White Pill Bottle w/assorted pills

( ) Copy of warrant and endorsed copy of inventory left in accordance with Rule 3.11(a), Alabama Rules of Criminal Procedure.

(X) Copy of warrant and inventory given to defendant,

Date: 04/16/2003

Signature of Law Enforcement Officer  
Title and Agency

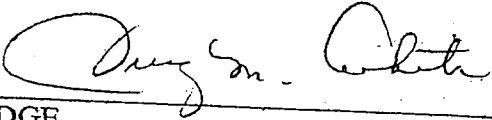


Sergeant Tony Luker  
Dothan Police Department

Receipt

I acknowledge receipt of return of the foregoing Search Warrant and all items, if any, noted on the foregoing inventory, at the date and time noted above.

Date: 04/16/2003

  
JUDGE

2

160



322

Badge #

08-13-91

Date

# Henry County Sheriff's Dept.



TONY LUKER  
is a duly appointed Deputy Sheriff  
of Henry County, Alabama

*Lawton Ed Armstrong*  
Lawton Ed Armstrong, Sheriff

## HENRY COUNTY SHERIFF'S OFFICE

Know All Men By These Presents:

That I, Lawton Ed Armstrong, as Sheriff of Henry County, under and by virtue of the authority conferred on me by the statutes in such cases, made and provided, do hereby constitute and empower

sworn Tony Luker as a

Deputy Sheriff in and for Henry County to act for me and in my stead to enforce the law and to execute any legal papers placed in his hands.

Under my hand this 13 day, August 1991

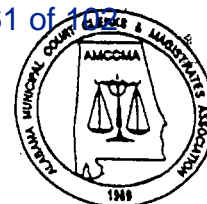
*Lawton Ed Armstrong*  
SIGNATURE

DOB		BLOOD TYPE	
[REDACTED]		AB+	
HEIGHT	WEIGHT	HAIR	EYES
5'11"	200	bro	blu
LEFT THUMB		RIGHT THUMB	



Honorable Rose Evans-Gordon  
Municipal Judge

# The City Of Dothan Municipal Court



Nancy Martin  
Municipal Court Administrator

August 11, 2004

Mr. Ralph Lingo  
Bullock County Correctional Facility  
P O BOX 5107  
Union Springs, AL 36089

Dear Mr. Lingo,

I have received your request for a copy of your search warrant. Unfortunately we are unable to provide you with a copy of this document.

I regret any inconvenience this may cause you.

Sincerely,

A handwritten signature in cursive script that reads "Melissa Woods".

Melissa Woods  
Staff Assistant  
Dothan Municipal Court





162

**JUDY BYRD**

CIRCUIT CLERK

AND

DISTRICT COURT CLERK

HOUSTON COUNTY

DOTHAN, ALABAMA 36302

Elaine Love  
Chief Clerk(334) 677-4858  
P.O. Drawer 6406

Mr. Ralph Lingo  
Easterling Correction Facility  
200 Wallace Drive  
Cllo, AL 36017

Mr. Lingo:

We are in receipt of your letter filed in our office on June 24, 2004. You requested a copy of a Search Warrant for a search performed on April 14, 2003 of your home in Henry County.

After a thorough search of our records in Houston County Clerk's office, we find no Search Warrant in your name or for any property in Henry County.

As we have previously advised you of our search, and we found nothing, you may want to check with the Henry County Records Department and see if they may have what you are requesting.

Very truly yours,

Judy Byrd  
Circuit Clerk  
Houston County Alabama



Very Important

163

GYPSY ETHRIDGE  
CIRCUIT CLERK OF HENRY COUNTY  
HENRY COUNTY COURTHOUSE  
101 Court Square, Suite J  
Abbeville, Alabama 36310-2135  
(334) 585-2753

April 27, 2004

Ralph Lingo #190083 9A-66  
Easterling Correctional Facility  
200 Wallace Dr.  
Clio, AL 36017

Mr. Lingo,

You appealed your plumbing case to Circuit Court for a jury trial. On the day that your case was set, you told Judge Jackson that you wanted to dismiss your appeal and accept the guilty plea. You wrote the Judge a letter saying that you wanted to appeal deciding to dismiss your appeal. Judge Jackson denied your motion to reinstate your appeal. You appealed that to the Court of Criminal Appeals and they refused to hear your appeal and that appeal was dismissed.

The search warrant that was issued was done in Houston County on a Houston County case that was being investigated. Henry County Sheriff's Deputy Troy Silva was there with the Officer from Houston County. There was a possibility that an officer from the State Fire Marshall's office there also. The Henry County court does not have anything to do with the search warrant and anymore papers or letters need to be addressed to the Houston County Circuit Clerk.

There is no probable cause for a kidnapping charge in that you were being investigated for a crime in Houston County. A warrant cannot be issued in Henry County. Please understand that Henry County has nothing to do with anything that arose out of an investigation in Houston County. Please address any further letters to Houston County Circuit Clerk.

Sincerely,

*Gypsy Ethridge*  
Gypsy Ethridge

Ralph Lingo

Date. 10-6-2004

164

{Also could you stamp and send me my copy  
of the subpoena list.

Make sure everything is stamped by  
Clerk of Court.

Mrs Judy Byrd

Will you please stamp the with the clerk  
of Court each page, please stamp each  
page and mail back to me for my records.  
At Ralph Lingo A.I.S. # 190083- Dorm 14- Bed 18  
P.O. Box 5107- Union Springs AL 36089

**FILED**

OCT 07 2004

JUDY BYRD, CLERK  
HOUSTON CO., AL

This is Ralph Lingo Corp  
Could you please mail back  
CASE CC 2003-000599.60  
CASE CC 2003-1340 - 1339

I do not know if you do this what I'm  
about to ask. Do you have any type of form  
for a search warrant form, will you please  
mail me a copy of one to show me what  
a search warrant form look like. Also

I send you some papers to send to Abbeville  
and to the City of Dethen Concerning radio transmission  
and dispatch log. Could you please stamp and  
mail me my copy back. after the Judge sign it.  
and could you please give me my next court  
date for a Jury trial.  
(Ralph Lingo 10-6-2004)

SEARCH WARRANT

(X) State of Alabama

( ) Municipality of The City of Dothan

Case Number: 02-007881

STATE OF ALABAMA

Henry County

2

TO ANY LAW ENFORCEMENT OFFICER WITHIN THE STATE OF ALABAMA:

Affidavit in support of application for a search warrant having been made before me, and the Court's finding that grounds for the issuance exist or that there is probable cause To believe that they exist, pursuant to Rule 3.8, Alabama Rules of Criminal Procedure, you are hereby ordered and authorized to forthwith search:

THE FOLLOWING PERSON OR PLACE:

(1) **10666 Highway 431 South, Newville Alabama.** To further describe this property, it is located on what is known in the community as Hatfield Mountain. On this property is a wooden frame house, a singlewide mobile home and a doublewide mobile home. The doublewide mobile home is Lingo's office/residence. When entering the driveway, drive past the wooden frame house and the single wide mobile home to Lingo's doublewide mobile home which is light in color.

(2) A White 2001 Dodge Pick-up VIN 1B7KC23691J214346.

(3) Any and all safes located inside Lingo's office/residence.

FOR THE FOLLOWING PROPERTY: Hand Guns, Audio Tapes, Business Records pertaining to Lingo's Mobile Home Repair and make return of this warrant and an inventory of all property seized there under before me within 10 days (not to exceed 10 days) as required by law.

(X) The Court find probable cause to believe that a nighttime search is necessary, and this warrant may be executed nighttime search is necessary, and this warrant may be executed at any time of the day or night.

ISSUED TO: SGT TONY R. LUKER, Dothan Police Department, on this 14th day of April 2003.

  
JUDGE/MAGISTRATE

APPLICATION AND AFFIDAVIT FOR A NO KNOCK SEARCH WARRANT

166

Case Number 03-003058

STATE OF ALABAMA,  
HENRY COUNTY

2

Before me, Judge Denny M. White, the undersigned authority, personally appeared Sgt. Tony Luker, who being by me first duly sworn, deposes and says:

(1) I am Sgt. Tony Luker, of the Dothan Police Department. I am currently assigned to the Criminal Investigation Division as a Sergeant. I am also a State Certified Fire Investigator. The testimony contained in this affidavit is based on three independent witnesses, my personal knowledge and experience as set forth below.

(2) I have been employed with the City of Dothan Police Department for the past 19 years and have been involved in the investigation of several arsons and business fraud cases.

(3) I am investigating several cases involving Ralph Wilson Lingo for arson and theft of property by deception in both Houston and Henry County as well as in the States of Alabama, Georgia and Florida. This investigation is in conjunction with the State Of Alabama Fire Marshall's Office.

4) Ralph Lingo has an extensive Criminal History for the following charges: Assault Second Degree, Theft of Property Second Degree and Receiving Stolen Property Second Degree. He has been convicted of Arson Third Degree, Criminal Mischief Second Degree and Assault Third Degree. The Assault Third Degree was a conviction of a lesser included offense of Sexual Abuse First Degree.

(5) Lingo has business records, which are kept throughout the mobile home and in filing cabinets, which reflects contracts that he has altered and increased the amount owed to him. Lingo preys on the elderly and when they question the amount he threatens them into paying him. These records are located at Lingo's office/residence that is located at 10666 Highway 431 South in Newville Alabama. To further describe this property, it is located on what is known in the community as Hatfield Mountain. On the property there is a wooden frame house, a singlewide mobile home and a doublewide mobile home. The doublewide mobile home is Lingo's office/residence. When you enter the driveway of the residence, drive past the house and singlewide mobile home to the light colored doublewide mobile home of Lingo's.

(6) Lingo has also conspired with another individual in Luverne, Alabama to burn a trailer for insurance purposes. Lingo collected \$5,000.00 from this individual. Lingo has

made a taped conversation of him and this individual talking about the conspiracy, as well as directions to the trailer.

(7) There have been several taped conversations between Lingo and different individuals on criminal activity, which is kept at Lingo's office and in a safe.

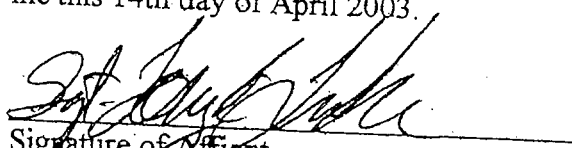
(8) This safe contains proceeds of Lingo's criminal activity, files, tapes and guns.

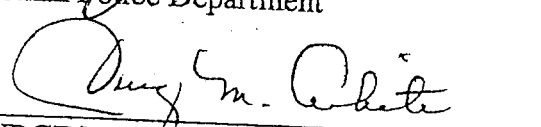
(9) Also located in Lingo's office/residence are several loaded weapons to include two 380 handguns located on each side of his bed in the bedroom. A 380 located next to a green recliner in the living room. A derringer on an end table in the living room. In the middle room of the mobile home are several shotguns and rifles.

(10) Lingo is also known to carry a handgun on his person or in his vehicle, a 2001 Dodge pick-up VIN 1B7KC23691J214346. Lingo uses this vehicle to facilitate his criminal activity.

Affiant shows that based on the above and forgoing facts and information, Affiant has probable cause to believe that the above described property is concealed upon the aforesaid premises, person, and vehicle and is subject to seizure and makes this affidavit so that a warrant may be issued to search said premises, person, and vehicle.

Sworn to and Subscribed before  
me this 14th day of April 2003.

  
Signature of Affiant  
Dothan Police Department

  
JUDGE/MAGISTRATE

RETURN AND INVENTORY

I certify that I executed the foregoing Search Warrant as directed by searching the person or place described at 10666 Highway 431 South, Newville Alabama, Any and all safes inside Lingo's office/residence and a White 2001 Dodge Pick-up VIN 1B7KC23691J214346, at approximately, 4:20 p.m. on the 14<sup>th</sup> day of April, 2003.

☐ Did not find and seize any property located thereon.

☒ Found and seized the following described property and made return of same to the Court at 7:17 o'clock (a.m. p.m.), April 16, 2003:

- (1) 1-Jennings Model #48 silver pistol Ser # 809158
- (2) 1-Jennings Model T38 black pistol Ser # 1422059
- (3) 1-Phoenix Arms Raven 25 Auto Ser #3095413
- (4) 1-5 Drawer File Cabinet w/assorted business files
- (5) 1-2 Drawer File Cabinet w/assorted business files
- (6) 1-Box w/3 1/2 Floppy Disk
- (7) Assorted Audio Tapes
- (8) Assorted Business Files on Metal Holder
- (9) 1-White Pill Bottle w/assorted pills

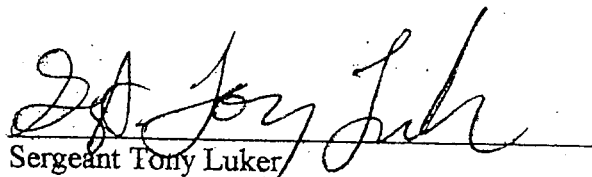
☐ Copy of warrant and endorsed copy of inventory left in accordance with Rule 3.11(a), Alabama Rules of Criminal Procedure.

☒ Copy of warrant and inventory given to defendant,

Date: 04/16/2003

Signature of Law Enforcement Officer

Title and Agency

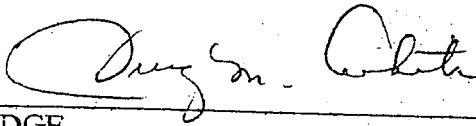


Sergeant Tony Luker  
Dothan Police Department

Receipt

I acknowledge receipt of return of the foregoing Search Warrant and all items, if any, noted on the foregoing inventory, at the date and time noted above.

Date: 04/16/2003

  
\_\_\_\_\_  
JUDGE

2



170



322

Badge #

08-13-91

Date

# Henry County Sheriff's Dept.



TONY LUKER

This is to verify that  
is a duly appointed Deputy Sheriff  
of Henry County, Alabama

*Lawton Ed Armstrong*  
Lawton Ed Armstrong, Sheriff

## HENRY COUNTY SHERIFF'S OFFICE

Know All Men By These Presents:

That I, Lawton Ed Armstrong, as Sheriff of Henry County, under and by virtue of the authority conferred on me by the statutes in such cases, made and provided, do hereby constitute and empower sworn Tony Luker as a Deputy Sheriff in and for Henry County to act for me and in my stead to enforce the law and to execute any legal papers placed in his hands.

Giver my hand this 13th day of August 1991

*Lawton Ed Armstrong*  
SIGNATURE

DOB		BLOOD TYPE	
[REDACTED]		AB+	
HEIGHT	WEIGHT	HAIR	EYES
5'11"	200	bro	blu
LEFT THUMB		RIGHT THUMB	



Honorable Rose Evans-Gordon  
Municipal Judge

# The City Of Dothan Municipal Court



Nancy Martin  
Municipal Court Administrator

August 11, 2004

Mr. Ralph Lingo  
Bullock County Correctional Facility  
P O BOX 5107  
Union Springs, AL 36089

Dear Mr. Lingo,

I have received your request for a copy of your search warrant. Unfortunately we are unable to provide you with a copy of this document.

I regret any inconvenience this may cause you.

Sincerely,

*Melissa Woods*

Melissa Woods  
Staff Assistant  
Dothan Municipal Court

Post Office Box 2128  
Dothan, Alabama 36302-2128  
(334) 615-4150  
Fax (334) 793-1369



*Very Important* 172

GYPSY ETHRIDGE  
CIRCUIT CLERK OF HENRY COUNTY  
HENRY COUNTY COURTHOUSE  
101 Court Square, Suite J  
Abbeville, Alabama 36310-2135  
(334) 585-2753

April 27, 2004

Ralph Lingo #190083 9A-66  
Easterling Correctional Facility  
200 Wallace Dr.  
Clio, AL 36017

Mr. Lingo,

You appealed your plumbing case to Circuit Court for a jury trial. On the day that your case was set, you told Judge Jackson that you wanted to dismiss your appeal and accept the guilty plea. You wrote the Judge a letter saying that you wanted to appeal deciding to dismiss your appeal. Judge Jackson denied you motion to reinstate your appeal. You appealed that to the Court of Criminal Appeals and they refused to hear your appeal and that appeal was dismissed.

The search warrant that was issued was done in Houston County on a Houston County case that was being investigated. Henry County Sheriff's Deputy Troy Silva was there with the Officer from Houston County. There was a possibility that an officer from the State Fire Marshall's office there also. The Henry County court does not have anything to do with the search warrant and anymore papers or letters need to be addressed to the Houston County Circuit Clerk.

There is no probable cause for a kidnapping charge in that you were being investigated for a crime in Houston County. A warrant cannot be issued in Henry County. Please understand that Henry County has nothing to do with anything that arose out of an investigation in Houston County. Please address any further letters to Houston County Circuit Clerk.

Sincerely,

*Gypsy Ethridge*  
Gypsy Ethridge



173

**JUDY BYRD**

CIRCUIT CLERK  
AND  
DISTRICT COURT CLERK  
HOUSTON COUNTY  
DOTHAN, ALABAMA 36302

(334) 677-4858  
P.O. Drawer 6406

Elaine Love  
Chief Clerk

Mr. Ralph Lingo  
Easterling Correction Facility  
200 Wallace Drive  
Clio, AL 36017

Mr. Lingo:

We are in receipt of your letter filed in our office on June 24, 2004. You requested a copy of a Search Warrant for a search performed on April 14, 2003 of your home in Henry County.

After a thorough search of our records in Houston County Clerk's office, we find no Search Warrant in your name or for any property in Henry County.

As we have previously advised you of our search, and we found nothing, you may want to check with the Henry County Records Department and see if they may have what you are requesting.

Very truly yours,

Judy Byrd  
Circuit Clerk  
Houston County Alabama

*File Date*  
11-1-04

174

STATE OF ALABAMA,

PLAINTIFF,

VS.

RALPH LINGO,

DEFENDANT.

) IN THE CIRCUIT COURT OF  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

HOUSTON COUNTY, ALABAMA

CRIMINAL DIVISION


CASE NUMBER: CC-2003-599 *W*

**MOTION TO TRANSPORT DEFENDANT**

COMES NOW the Defendant, RALPH LINGO, and hereby moves this Honorable Court for an Order to transport the Defendant, RALPH LINGO, who is incarcerated at Bullock County Correctional Facility to the Houston County Courthouse, Dothan, Alabama, for a Trial scheduled herein on the 1<sup>st</sup> day of November 2004, at 8:30 A.M. before Judge White.

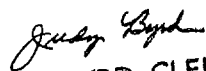
WHEREFORE, Defendant, prays that this Honorable Court shall enter an Order allowing the Defendant to be transported to the Houston County Courthouse, Dothan, Alabama.

Respectfully submitted,

  
TAMMY L. STINSON (STI019)  
ATTORNEY FOR DEFENDANT  
313 NORTH FOSTER STREET, SUITE 4  
DOTHAN, ALABAMA 36303  
(334) 699-2143

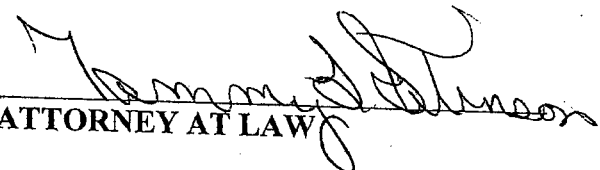
**FILED**

OCT 14 2004

  
JUDY BYRD, CLERK  
HOUSTON CO., AL

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the above and foregoing Motion upon the Honorable Douglas A. Valeska, Esquire, District Attorney, Houston County Courthouse, by placing a copy of same in his appropriate Courthouse box, this the 14<sup>th</sup> day of October, 2004.

  
**ATTORNEY AT LAW**

STATE OF ALABAMA,

PLAINTIFF,

VS.

RALPH LINGO,

DEFENDANT.

) IN THE CIRCUIT COURT OF  
)  
)  
) HOUSTON COUNTY, ALABAMA  
)  
) CRIMINAL DIVISION  
)  
) CASE NUMBER: CC-2003-599  
)

**ORDER OF TRANSPORT**

The matter before the Court is the "Motion To Transport Defendant" filed herein by the Defendant; This Court has read, understood, and considered said Motion and is of the opinion that said Motion should be **GRANTED**; accordingly, it is hereby

**ORDERED, ADJUDGED AND DECREED** as follows:

1. That the Sheriff of Houston County, Alabama shall transport the Defendant from Bullock County Correctional Facility to the Houston County Courthouse on November 1, 2004, at 8:30 a.m., for the purpose of a Trial before the Honorable Judge White.
2. That immediately after said hearing, the Sheriff of Houston County, Alabama shall transport the Defendant back to Bullock County Correctional Facility.

This the 19<sup>th</sup> day of October, 2004.

**FILED**

OCT 19 2004

*Judy Byrd*  
JUDY BYRD, CLERK  
HOUSTON CO., AL

*Dwight M. White*  
JUDGE

*10-04  
Rafael  
Lammy  
Stinson,  
DA,  
J. Lindsey  
+ C. Atkinson  
at Doc*

IN THE CIRCUIT COURT OF HOUSTON COUNTY, ALABAMA

177

STATE OF ALABAMA

Plaintiff,

**FILED**

Vs.

OCT 27 2004

Case No: CC-2003-1339,1340,0599 W

Ralph Lingo,

Defendant,

*Judy Byrd*  
JUDY BYRD, CLERK  
HOUSTON CO., AL

MOTION FOR DISCOVERY OF UNDISCLOSED INFORMATION

COMES NOW, Ralph Lingo, Defendant, and requests this Honorable Court to Grant this his request for Discovery of items and material that is vital to his pending action before this Honorable Court. Defendant prays that this Court will let him proceed and obtain the requested listed materials to prove, and defend against the charges pending.

1. The Dothan City Police Department, dispatch logs, audio tapes, for the Dates of April 14, 2003, from 6 am to 6 pm. and for May 7, 2003, for 6 am to 6 pm.
2. The Henry County Sheriff's dispatch logs, or audio logs, for April 14, 2003, for 6 am to 6 pm. and May 7, 2003, for 6 am to 6 pm.
3. All video tapes for the Henry County Courthouse, video surveillance, for April 14-thru-16, 2003, from 6 am to 6 pm. for these dates.
4. The video tapes, both inside and outside, of the Dothan City Jail, (the Whole jail) for the dates of April 13-thru18, 2003, from 6 am to 6 pm, also for May 7-8, 2003, from 6 am to 6pm.
5. The dispatch logs, or audio tapes for the Houston County Sheriff's Department, for April 14, 2003, for 6 am to 6 pm, and May 7, 2003, from 6 am to 6 pm.
6. The video tapes for the Houston County Courthouse, for April 16, 2003, from 6 am to 6 pm.



7. To produce or supply all tapes, both audio and video, and all photographs taken on the day of April 14, 2003, during the search and seizure of all properties from 10666 Highway 431 South Newville, Alabama, supposid residence of Ralph Lingo, which has never been provided or issued, or allowed to be viewed by Defendant of his legal Counsel, yet requested repeatly by such.

Defendant prays this Court will Order and Grant this Motion for what has not been revealed.

Done on this the 25th day of October, 2004.

Respectfully submitted,

*Ralph Lingo* 10-25-2004  
Ralph Lingo, Defendant  
190083 3-34  
P.O. Box 1107  
Elmore, Ala. 36025

IN THE CIRCUIT COURT OF HOUSTON COUNTY, ALABAMA

179

State of Alabama

Plaintiff,

VS.

Ralph Lingo,

Defendant.

CASE NUMBER: CC-2003-1339, 1340  
CC-2003-0599

**FILED**

OCT 28 2004

*Judy Byrd*  
JUDY BYRD, CLERK  
HOUSTON CO., AL

MOTION FOR RETURN OF SEIZED PROPERTY

COMES NOW, Ralph Lingo, Defendant, in the above styled cause and moves this Court to direct that certain property belonging to him, and which is listed upon this pleading, and which was unlawfully taken from him on April 14, 2003, and on May 7, 2003. At the premises known as 10666 Highway 431 South, Newville Alabama, in Henry County.

The following items were taken unlawfully from the residence, and from the person of Ralph Lingo.

1. One White 2001 Dodge Pick-up, VIN# 1B7KC23691J214346, which was impounded by the Dothan City Police Department.
  2. One Hewlett & Packard computer, taken from residence, and never listed upon RETURN AND INVENTORY, sheet signed by Sgt. Tony Luker, on April 14, 2003, but **not** listed upon the actual Police Inventory.
  3. One HONDA generator, taken from residence, but never listed upon **any inventory sheets**.
  4. Approximately 1500 (fifteen Hundred) video tapes, located within two (2) cardboard boxes, 4 ft. by 2½ ft. in size, that were taken from the defendants residence while he watched them being confiscated.
  5. All business files, listed under Newville Portable Building Company.
  6. One Xerox copy, fax machine, not listed upon any Inventory Sheets, yet taken on April 14, 2003, in defendant's presence.
  7. All other items taken and not listed upon any Inventory Sheets, by the Dothan City Police officer Sgt. Tony R. Luker.
- These items should be returned to the defendant through this Court's

own Order.

These items that are listed upon the Dothan Police Department Property Evidence Receipt, form signed by one Sgt. Tony R. Luker, yet are not listed upon the RETURN AND INVENTORY, sheet dated April 16, 2003, signed by Sgt. Tony Luker, and the acknowledged receipt of such signed by Judge White, on April 16, 2003.

The Defendant prays that this Honorable Court will issue this Return of Seized Property.

Done this the 22nd, day of October, 2004.

Respectfully submitted,

*Ralph Lingo* 10-22-04  
Ralph Lingo, defendant  
190083 3-34  
P.O. Box 1107  
Elmore, Alabama 36025

IN THE CIRCUIT COURT OF HOUSTON COUNTY, ALABAMA

181

State of Alabama

Plaintiff

VS.

Ralph Lingo,

Defendant.

Case Number: CC-2003-1339, 1340

**FILED**

OCT 28 2004

MOTION TO SURPRESS EVIDENCE AND CONTROVERT SEARCH WARRANT

JUDY BYRD, CLERK  
HOUSTON CO., AL

COMES NOW, THE DEFENDANT, Ralph Lingo, and moves this Honorable Court, and Grant this his Motion to Surpress Evidence and Controvert Search Warrant. This Defendant will show this Honorable Court the following;

Defendant Ralph Lingo, moves to quash a search warrant, for case Number: 02-007881, issued on the 14th day of April, 2003, to Sgt. Tony R. Luker, of the Dothan City Police Department, by Judge White. And also to suppress as evidence the articles taken by means of such search and seizure, and any evidence gained by means of such search.

The grounds for this motion are:

1. The warrant was illegally executed.
2. The warrant was insufficient on it's face.
3. The property seized was not sufficiently described by the warrant.
4. That this search warrant does not name the Defendant, Ralph Lingo, as a party of the warrant.
5. That there are multi-residences listed as addressed upon this warrant, and the Defendant's mobile home was only one of many, listed upon the location of this address, as listed upon the warrant.
6. That the warrant was issued in Henry County, Alabama, the warrant was issued to a Dothan City Police Officer, in Houston County, where a city police officer, in another County, has no jurisdiction for such a warrant, or the jurisdiction to serve such.
7. This warrant does not name the person, or particularly describe the property to be searched.
8. The warrant is directed against the premisis of no certain person.
9. The White Dodge pick-up VIN # 1B7KC23691J214346, was searched at the address listed upon the warrant, on April 14, 2003, yet this same vehicle was later confiscated on May 7, 2003, and impounded by Sgt. Tony R. Luker, and the Dothan Police Department, and is still in thier possession.

10. A copy of the search warrant was never served upon the Defendant as required by Alabama law, per Code of Alabama 15-5-11, or A.R.C.P. 3.11(a).

11. This Motion is made pursuant to A.R.C.P. 3.13(b).

12. By reason of the foregoing, said search and seizure was unreasonable in violation of the Fourth Amendment to the United States Constitution, and defendant was compelled to give evidence against himself in violation of the self-discrimination clause of the Fifth Amendment.  
Done this the 22nd day of October, 2004.

Respectfully submitted,

*Ralph Lingo 10-22-04*  
Ralph Lingo, Defendant  
190083 3-34  
P.O. Box 1107  
Elmore, Alabama 36025

IN THE CIRCUIT COURT OF HOUSTON COUNTY, ALABAMA

STATE OF ALABAMA,  
Plaintiff,

Vs.

Case No: CC-2003-1339,1340,0599

RALPH LINGO,  
Defendant.

MOTION FOR REAPPOINTMENT OF COUNSEL

COMES NOW, Ralph Lingo, Pro se Defendant in the above styled Cause, and would respectfully ask this Honorable Court for the following:

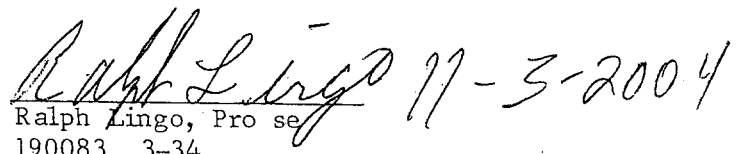
1. The Defendant wishes to discharge/replace his present assigned Attorney, one Ms. Tammy Lynn Stinson, which this Court did appoint.
2. The Defendant and Ms. Stinson, do not have an equal or even mutual agreement on the defense or representation of this Defendant's case.
3. That Defendant has irreconcilable differences with Ms. Stinson, that cannot be overcome, or worked through, and these differences hinder adequate representation.
4. That Defendant has infact filed a grievance/complaint against Ms. Stinson, with the Alabama Bar Association, for her not handling Defendant's pending case, as required by Alabama Law, and the United States Constitution, and the Alabama Bar Association creed requires.
5. That this Attorney Ms. Stinson has not prepared the Motions, Investigation nor invested the required time to properly prepare and give this Defendant due representation as required by law.
6. That Ms. Stinson return any and all funds paid to her by this Court for work undone by her towards this Defendant's defense.
7. That this Honorable Court appoint another Attorney to represent

this Defendant in the upcoming legal proceeding.

The Defendant prays that this Honorable Court will grant this his Motion, as required by law to fairly and justly be able to present to this Court the facts, at issue and set for trail.

Done on this the \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

Respectfully submitted,

  
Ralph Lingo, Pro se  
190083 3-34  
P.O Box 1107  
Elmore, Alabama 36025

RL/gp

STATE OF ALABAMA,	)	IN THE CIRCUIT COURT OF
	)	
PLAINTIFF,	)	HOUSTON COUNTY, ALABAMA
	)	
VS.	)	CASE NUMBER: CC-2003-599
	)	
RALPH LINGO,	)	
	)	
DEFENDANT.	)	

**MOTION IN LIMINE**

COMES NOW the defendant, **RALPH LINGO**, in the above referenced case and moves this Honorable Court in limine for an Order instructing the District Attorney to refrain absolutely from making any direct or indirect reference whatsoever in person, by counsel, or through witnesses, to the evidence or testimony described. In support of his motion the defendant shows the following:

1. The trial will involve a determination of these basic issues:
  - (A) Whether Ralph Lingo committed the offense of Intimidating a Witness against Debra Tice Blackstone on or about May 2, 2003;
2. The defendant believes and alleges that at trial the State will attempt to introduce evidence, make reference to, or otherwise leave the jury with the impression that he has been involved as perpetrator, defendant, and subsequently convicted in previous cases charging the defendant with the offenses of Arson 3<sup>rd</sup> in Houston County, Arson 3<sup>rd</sup> and 2<sup>nd</sup> in Dale County and Criminal Mischief in Houston County, offenses occurring in 1988, the offense of Assault 3<sup>rd</sup> in Houston County offense occurring in 1991, the offense of Harassing Communications in Dale County offense occurring in 1994, the offense of No Plumbing or Gas

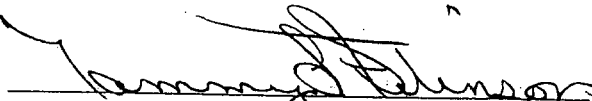


Certification and Assault 3<sup>rd</sup> in Henry County offenses occurring in 2002, and the offense of Criminal Conspiracy in Barbour County offense occurring in 2003, and other possible acts of the defendant completely unrelated to nor tending in any way to prove the offense at bar, other than to place the defendant's character in issue.

3. It is immaterial and unnecessary to the disposition of this case and contrary to the rules of evidence recognized by law in this state to permit such evidence or inference and would be highly prejudicial to the defendant in the minds of the jury in that the evidence would place the defendant's character in issue and inform the jury of past crimes and offenses for which the defendant has been convicted.
4. An ordinary objection during the course of trial, even if sustained with proper instructions to the jury, will not remove the effect of such evidence from the minds of the jurors even though the defendant's character has not been placed in evidence and these past activities of the defendant are too unrelated and too removed in time to have any evidentiary value in the case at bar.

The Defendant prays this Honorable Court exercise its discretion and make an Order absolutely prohibiting offers or references to these matters.

Respectfully submitted this the 3rd day of November, 2004.



**TAMMY L. STINSON (STI019)**  
**ATTORNEY FOR DEFENDANT**  
**313 NORTH FOSTER STREET, SUITE 4**  
**DOTHAN, ALABAMA 36303**  
**(334) 699-2143**

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the above and foregoing Motion upon the Honorable Douglas A. Valeska, Esquire, District Attorney, Houston County Courthouse, by placing a copy of the same in his appropriate Courthouse box, on this the 3<sup>rd</sup> day of November, 2004.

  
\_\_\_\_\_  
ATTORNEY AT LAW

STATE OF ALABAMA,	)	IN THE CIRCUIT COURT OF
	)	
PLAINTIFF,	)	HOUSTON COUNTY, ALABAMA
VS.	)	
	)	CRIMINAL DIVISION
RALPH LINGO,	)	
	)	CASE NUMBER: CC-2003-599
DEFENDANT.	)	

**MOTION TO SUPPRESS DEFENDANT'S STATEMENTS**

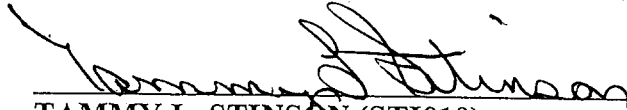
COMES NOW the Defendant, **RALPH LINGO**, and hereby moves this Honorable Court to suppress any and all statements made by him to law enforcement officers after his arrest. In support of his motion, the defendant states:

1. Ralph Lingo is charged with Intimidating a Witness.
2. The State, by and through the District Attorney, will attempt to introduce into evidence at trial, oral admissions, a written statement, and/or tape recordings of statements made by the defendant to law enforcement officers while in custody.
3. Those statements which incriminate the defendant were made in the absence of counsel and without an intelligent or knowing waiver of counsel.

**WHEREFORE**, Defendant, prays for a hearing to determine the voluntariness of the statements in the totality of circumstances and to determine the validity of any waiver of counsel prior to the interrogation.

The defendant also prays that he be granted a hearing prior to trial to determine whether the statements were voluntarily given.

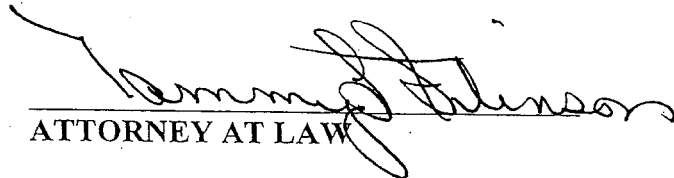
Respectfully submitted,



TAMMY L. STINSON (STI019)  
ATTORNEY FOR DEFENDANT  
313 NORTH FOSTER STREET, SUITE 4  
DOTHAN, ALABAMA 36303  
(334) 699-2143

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the above and foregoing Motion upon the Honorable Douglas A. Valeska, Esquire, District Attorney, Houston County Courthouse, by placing a copy of same in his appropriate Courthouse box, this the 3<sup>rd</sup> day of November, 2004.

  
ATTORNEY AT LAW


STATE OF ALABAMA,	)	IN THE CIRCUIT COURT OF
	)	
PLAINTIFF,	)	HOUSTON COUNTY, ALABAMA
	)	
VS.	)	CASE NUMBER: CC-2003-599
	)	
RALPH LINGO,	)	
	)	
DEFENDANT.	)	

### MOTION IN LIMINE

The defendant, RALPH LINGO, moves this Honorable Court to Order the District Attorney, agents of the State, and all witnesses to refrain absolutely from making any mention or reference, either direct or indirect, to the fact that this defendant is also charged with counts of Theft by Deception and Conspiracy to Commit Arson in the Circuit Court of Houston County and two counts of Receiving Stolen Property in Henry County.

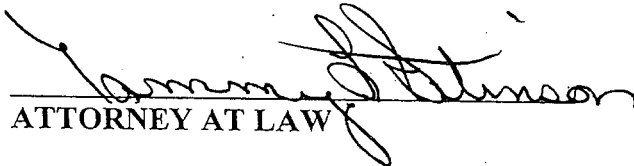
1. The criminal charges in Houston County and Henry County are pending at this time and no adjudication of guilt or jury verdict has been obtained. To allow the State to bring in evidence of a separate and distinct crime or crimes from which this defendant has not been convicted would constitute a denial of due process, equal protection, and would make it legally impossible for this defendant to obtain a fair and impartial trial on the charges in this Court. The interest of justice dictate that an Order be given in this case to protect this defendant's constitutional rights under the United States and Alabama Constitutions.
2. In addition, to allow the State to make any reference to these other criminal charges would place this defendant's character into evidence unjustifiably and illegally and would result in reversible error.

It is respectfully requested that this Court issue an Order prohibiting the State, including the District Attorney, agents of the State, and any and all witnesses to be called in the trial of this case, to refrain absolutely from making any mention or reference, either direct or indirect, to any of these other pending criminal charges.

  
 TAMMY L. STINSON (STI019)  
 ATTORNEY FOR DEFENDANT  
 313 NORTH FOSTER STREET, SUITE 4  
 DOTHAN, ALABAMA 36303  
 (334) 699-2143

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the above and foregoing Motion upon the Honorable Douglas A. Valeska, Esquire, District Attorney, Houston County Courthouse, by placing a copy of the same in his appropriate Courthouse box, on this the 3<sup>rd</sup> day of November, 2004.

  
\_\_\_\_\_  
ATTORNEY AT LAW

November 3, 2004. Defendant's motion in  
limine granted as to any fact conviction  
or pending charge not relevant to this  
indictment unless defendant chose to testify.  
Motion to Suppress statement of defendant denied.  
Jury on White, Judge

November 3, 2004 - Motion for appointment of new attorney  
denied. *Angela White*

November 3, 2004. Motion for judgment of acquittal is denied. *Angela White*  
*Order*



## JURY CONVICTION

IN THE CIRCUIT COURT OF HOUSTON COUNTY, ALABAMA

STATE OF ALABAMA

CRIMINAL DIVISION

VS.

Ralph Wilson LongoCASE NO. CC 2003-599

The Defendant having been indicted and arraigned upon the Indictment on a charge of Intimidating Witness and heretofore having plead not guilty thereto the case was tried before a jury composed of Steven L. Henderson as foreperson and eleven others. The Jury having been duly empanelled, sworn and charged by the Court according to law, with the Defendant being present in open court with his attorney at each and every stage of proceedings, said jury has now on this date pursuant to their oath found the Defendant guilty of Intimidating Witness as charged in the Indictment (a lesser included offense of that charge in the Indictment).

In accordance with the verdict of the Jury, Defendant is hereby adjudged guilty of Intimidating Witness. Defendant being asked if he/she had anything to say why sentence of law should not be pronounced upon him/her, and Defendant says nothing.

IT IS THEREFORE ORDERED AND ADJUDGED BY THE COURT that the Defendant is guilty of said charge.

☒ A Sentence hearing is set for the 9<sup>th</sup> day of December, 2004 at 9:00 o'clock AM.

DONE, this the 4<sup>th</sup> day of November, 2004.

Orville M. White  
CIRCUIT JUDGE

Stamp and see  
by the clerk of court  
and keep on file

Date 1. 05-2004

195

page 1 of 7

Case number: 2003-cv-599

Defendant: Ralph Lingo

Plaintiff: Deborah Blackstone

Charge: Intimidating a state witness.

File in the Houston County Court, Dothan, Al.

I, Ralph Lingo, ask the court for  
a retrial. The reasons why:

1. Tony Luker was recording part of the trial with a hand tape recorder.
2. The court denied all my witnesses. The court did not let me know this.
3. Houston County Jail would not allow me to shave, or comb my hair, or get ready for court. Then I was lied to three different times when I asked if I was going to court.
4. My attorney had misled me, and had been lying to me ever since she has been on my case.
5. My attorney would not cross examine any of the witnesses.

Page 2 of 7

6. My attorney did not tell me that my witnesses would not be at my trial.
7. I asked my attorney to bring up the search warrant during trial. She refused. The search warrant was very critical to my trial.
8. I asked my attorney to bring up my arrest by Dothan police officers while I was in another county and jurisdiction.
9. The judge would not allow me to be co-counsel to my attorney during my trial, so that I could cross examine or question any of the witnesses. I feel my constitutional rights were violated.
10. Deborah Blackstone was never subpoenaed to be a state witness.
11. The court refused to give me any evidence I have asked for.

Page 3 of 7

12. I feel like the Bullock Corrections investigator misled me during an investigation. He had me sign a paper and told me it was for medical reasons. He never mentioned Deborah Blackstone until he turned on a tape recorder and suddenly began questioning me about her. He planned to turn this over to another investigator who was assigned to my case and trial.
13. This incident was already turned over to lieutenant Cunningham with Bullock Correctional Facility. That is, the incident I was questioned about.
14. The investigator for Bullock Correctional did not ever question me about any type of criminal activity toward Deborah Blackstone until he turned on his tape recorder.
15. The jury was not questioned properly. Some of the jury were co-workers of Deborah Blackstone, and some were co-workers with her mother. She was talking to the jury during a lunch recess.

Page 4 of 7

16. a member of the jury witnessed me being handcuffed in front of him, and I was not allowed to take off my Houston county wristband during my trial.
17. I have asked my attorney to step off my case many times. I have filed a complaint to the bar that tammy stinson would not give me a copy of the motion of discovery. She also told me not to call her, not to write her more than once a month, she also stated she would only get prepared for my trial at the time of my trial. I had subpoenaed my own witnesses. I feel like my rights were violated when the judge denied me my witnesses.
18. In my and Deborah Blackstones divorce papers, never has she made a report against me for any type of body harm to her.
19. my attorney would not bring up Deborah Blackstone's and my bank account together

Page 5 of 7

20. I asked my attorney to bring up and question Deborah Blackstone about our common law marriage. She and I had lived together for over four years, and common law marriages cannot testify against one another.
21. witnesses I had subpoenaed were critical to my case.
22. during a corpus haebus bond hearing, Judge White would not let the court reporter record anything.
23. During my trial, Judge White asked Deborah Blackstone more questions than the state attorney. I feel like he was leading the witness.
24. The judge agreed to a lesser offense charge, then changed his mind when the jury came in.
25. my attorney would not pull a criminal history report for state witness Lisa Robbins.

Page 6 of 7

26. I asked for a pretrial hearing and my attorney ~~so~~ said I could not have one.
27. file for a motion to depress all evidence and search warrant before any trial was ignored by the court
28. I was very sick and ill because of my blood pressure.
29. I never had a docket call.
30. I am asking the court to give me a retrial and to allow me my witnesses, and to bring up the jurisdiction law, as it applies to my case. I also want a hearing on the search warrant. T
31. I want to make sure that the transcripts have where I gave Judge white all the law on jurisdiction. He told me to give him all my paper work, and I did.

page 7 of 7

32. Judge White was withholding evidence from the jury, and would not let the defense give ~~the~~ evidence to the jury.

If the court does not allow me a retrial, I ask to be brought in front of the judge for sentencing without delay. I will then ask for an appeal, so I can start my appeal process. I ask the court to give me a hearing at once, within the next seven days.

Ralph Lingo  
11-5-2004

Stamp and Seal by the  
Clerk of court and keep  
on file.

**FILED**

NOV 10 2004

*Judy Byrd*  
JUDY BYRD, CLERK  
HOUSTON CO., AL



Case number: 2003-000-599

stamp and seal and keep on  
file by the Houston County clerk of court

I am filing for a dismissal of  
the indictment for intimidation of a  
state witness. The indictment is not a  
true bill.

1. The indictment misreads intentionally
2. Knowingly
3. Recklessly
4. Criminal negligence

It is found in 816 So. 2d 98  
and the Judge would not let me bring this  
up in trial. I want a trial dismissed because  
This is not a true indictment.

Stamp and seal by the clerk of court  
and keep on file

**FILED**

NOV 10 2004

*Judy Byrd*

JUDY BYRD, CLERK  
HOUSTON CO., AL

13A-10-123  
*Ralph Lingo*, 11-5-2004  
Date

COURT OF CRIMINAL APPEALS NO. CR 04-0602

## APPEAL TO ALABAMA COURT OF CRIMINAL APPEALS

FROM

CIRCUIT COURT OF HOUSTON COUNTY, ALABAMACIRCUIT COURT NO. CC-2003-599 Volume IICIRCUIT JUDGE Jerry WhiteType of Conviction / Order Appealed From: Intimidating a WitnessSentence Imposed: 20 years, \$10,000.00 Fine \$1,000.00 Victim Compensation and CostDefendant Indigent: ☒ YES ☐ NORalph LingoJon Patrick Amason 334-793-9009  
(Appellant's Attorney) (Telephone No.)401 N. Foster Street  
(Address)Dothan Alabama 36301  
(City) (State) (Zip Code)

NAME OF APPELLANT

V.

STATE OF ALABAMA

(State represented by Attorney General)

NAME OF APPELLEE

NOTE: If municipal appeal, indicate above, and enter  
name and address of municipal attorney below.

(For Court of Criminal Appeals Use Only)

Nov. 18, 2004 - Motion for neutral demand
Motion to Suppress, etc. denied
(12-7-04 N.T.S. + DA)

Dwight White

STATE OF ALABAMA

\* IN THE CIRCUIT COURT OF  
 \*  
 \* HOUSTON COUNTY, ALABAMA.  
 \*  
 \* CASE NO. \_\_\_\_\_

204

VS.

Ralph Lingo

**NOTICE TO DEFENDANT OF PREVIOUS CONVICTIONS AND**  
**NOTICE OF INTENT TO USE SUCH CONVICTIONS FOR IMPEACHMENT PURPOSES**

You are hereby notified that the District Attorney's Office has evidence of the following convictions, which, in the event of your conviction in the above case, will be presented to the Court for consideration under the Habitual Offender Statute, §13A-5-9, Code of Alabama, 1975. Furthermore, it is the State's intent to use such convictions for impeachment purposes should the defendant testify at trial - Rules 609(a)(b)&(c) of the Alabama Rules of Evidence:

Date	Case No.	Charge	Disposition	Jurisdiction
3-2-83	CC-82-798	R.S.P. II	2 YRS.	HOUSTON CO., ALA.

You will be properly notified in the event the District Attorney receives evidence of any other additional convictions.

This the 8 day of Dec., 2004.

Henry D. Binford  
 Henry D. Binford  
 Assistant District Attorney

**CERTIFICATE OF SERVICE**

I, Henry D. Binford, Assistant District Attorney, do hereby certify that I have this date served a copy of the foregoing on Tommy Stinson, attorney of record for the defendant, by ~~fax~~ placing a copy of the same in his/her mailbox at the Houston County Courthouse on this 8 day of Dec. 2004.

Henry D. Binford  
 Henry D. Binford  
 Assistant District Attorney

**FILED**

DEC - 8 2004

Judy Byrd  
 JUDY BYRD, CLERK  
 HOUSTON CO., AL

205

State of Alabama Unified Judicial System Form C-6 Rev 8/77		<b>CASE ACTION SUMMARY (CRIMINAL)</b>		Case Number CC 82 798 ID YR Number	
IN THE CIRCUIT		COURT OF HOUSTON		COUNTY	
STATE OF ALABAMA vs.		Date of Birth	Distinguishing Features:		
Defendant  Ralph Wilson Lingo	Address  Zip	SSAN	Sex	Race	Eyes Hair Height Weight
Employer DOB: 2-4-62	Date Docketed: 11-18-82	Date War/Cap. Issued	Date Committed to Jail		
Case Number CC 82 798	<input checked="" type="checkbox"/> Jury <input type="checkbox"/> Non-Jury	Writ 11-16-82	11-17-82		
Charges <input type="checkbox"/> Misd. <input checked="" type="checkbox"/> Fel. <input type="checkbox"/> App.	Date Arrested 11-17-82	Date Initial Appearance	Date Released on Bond		
Receiving Stolen Property, Second Degree	Prosecutor Thomas W. Sorrells Attorney <i>J. Earl Smith</i>	Bond Amount \$1,000.00	11-17-82		
	Judge ID	Bond Type & Sureties	Property		
		Dt. Prelim. Hearing	Dt. Probation Applic.		
		Dt. Y.O. Applic.	Dt. Indictment		
		Grand Jury No. 115	11-16-82		
		Dt. Arraignment 11-24-82	Plea		
Arresting Officer:	<input type="checkbox"/> Municipal <input type="checkbox"/> State <input type="checkbox"/> County <input type="checkbox"/> Conservation	Dt. Trial 3-2-83	Dt. Sentenced		
Complainant:	Address	Dt. Appeal Filed	Appeal Bond Amt.		
Additional Information And Remarks:		Disposition			
DATE ACTIONS, JUDGMENTS, CASE NOTES					
Nov 24, 1982 - Forfeiture bail check not arrt to issue No bond					
Nov 24, 1982 - Forfeiture set aside					
Nov 24, 1982 - Defendant arraigned on the indictment in this cause and pleads not guilty to the offense charged therein. Case set for trial Feb 28					
35-398	1983 <i>[Signature]</i> JUDGE				
(over)					

Court Record - White

Date

## ACTIONS, JUDGMENTS, CASE NOTES

March 2, 1983. The Defendant Ralph Wilson Long together with his attorney, being before the Court in open Court, and having been advised by the Court of the charge or offense embraced in the indictment, and having been further advised by the Court of the punishment for said offense provided by law, the said defendant Ralph Wilson Long, with the consent and advice of his attorney, pleads guilty to the offense of Receiving Stolen Property as charged in the indictment. The Court adjudges the defendant Ralph Wilson Long guilty of Receiving Stolen Property as charged in the indictment, on his said plea of guilty thereto. Defendant sent to imprisonment in the penitentiary for 2 years.

D. M. Little  
Judge Presiding

March 2, 1983 - Deft. makes application for Probation.  
35-656

April 1, 1983 - Deft. placed on 5 years Probation

Circuit Court

State of Alabama, Houston County

I Judy Byrd, Clerk of The Circuit Court, hereby certify that this is a true and correct copy of

Case Act. & Summary  
filed in this Court on Ralph LongThis the 8 day of Dec, 2004

Judy Byrd  
Circuit Clerk

207

# ALABAMA DEPARTMENT OF PARDONS AND PAROLES

## REPORT OF INVESTIGATION

Type of Investigation Pre-Sentence Officer Will H. Johnston

Name Lingo, Ralph Wilson True Name Same

Alias \_\_\_\_\_

RSA W/M 42 DOB 02-04-62 Height and Weight 6' 1" 250

Complexion \_\_\_\_\_ Color of Hair Brown Color of Eyes Hazel

Bodily Marks Scars on knees

Driver's License AL-4555145 SS# 416-96-9145

AIS# 190083 FBI# 17755X SID# AL-008737127

Address Alabama Department of Corrections Phone# \_\_\_\_\_

PR# 1995-120630

County Houston Case# CC 2003-599

Offense (s) Intimidating a Witness

Sentence (s) \_\_\_\_\_

Date of Sentence \_\_\_\_\_ Date Sentence Began \_\_\_\_\_

Date of Arrest 05-08-03 Date of Bond \_\_\_\_\_ Bond Amt. \$ 200,000

Judge Jerry M. White D.A. Douglas Valeska

Attorney Tammy Stinson Retained \_\_\_\_\_ Appointed X

Total Court Ordered Restitution \$ \_\_\_\_\_

Barred from Parole Yes \_\_\_\_\_ No X

Date Prepared 12-07-04 Date Sent to Central Records \_\_\_\_\_

**NOTES:**

**PRESENT OFFENSE**

**County, Court, and Case Number:**

Houston County 20<sup>th</sup> Judicial Circuit Court Case Number CC 2003-599

**Offense:**

Intimidating a Witness

**Sentence:**

**Date of Sentence:**

**Details of Offense:**

On 04-24-03, the victim, Debra Tice Blackstone of 402 Emmons Drive, Dothan, Alabama signed a warrant on her ex-husband, Ralph Lingo for harassing communications. Ms. Blackstone also signed a ex-parte protection order on the same date.

On 04-29-03, Ralph Wilson Lingo was arrested for Harassing Communications.

On 05-02-03, Debra Tice Blackstone was hand delivered a letter at her residence by an unknown black male. This letter contained nude pictures of Ms. Blackstone as well as a threat to ruin her really bad and to post these pictures all over Dothan. The letter also stated that Ms. Blackstone needed to contact Ralph Lingo and drop all charges that were pressed against him.

On 05-08-03, Ralph Wilson Lingo was arrested and charged with Intimidating a Witness.

**Serious Physical Injury Barring Parole:**

None

**Subject's Statement:**

The subject was unavailable to make a statement.

**Case Status of Co-Defendants:**

None



**Victim Notification Information Form ( ) Completed ( ) Attached ( ) Not Applicable:**

Debra Tice Blackstone 402 Emmons Drive, Dothan, Alabama.

**Victim Impact:**

The victim stated she has suffered emotionally due to this trial.

**Location of Offense:**

This offense occurred within the City Limits of Dothan, Alabama.

**Court Ordered Restitution:****RECORD OF ARREST (S)****Prior Arrest Record:**

<b><u>Arrest Date</u></b>	<b><u>Court</u></b>	<b><u>Offense</u></b>	<b><u>Disposition Date</u></b>	<b><u>Disposition</u></b>
09-19-81	Houston County Sheriff's Department	Assault II	02-02-82	Dismissed
06-23-82	Houston County Circuit Court 38 CC 82-600	Theft of Property I	01-24-83	Dismissed
06-23-82	Houston County Sheriff's Department	Larceny of Property II		Unlisted
09-15-82	Houston County Circuit Court 38 CC 82-798	Receiving Stolen Property II		Sentenced to 3 Years

09-15-82	Houston County District Court 38 CC 82-848	Criminal Coercion		Guilty 6 Months Suspended Sentence, Fined \$50.00
01-25-88	Dale County Sheriff's Department	Arson II		Guilty,, Pled down to Arson III, Sentenced to 30 Days, Fined \$50.00
03-30-88	Houston County Sheriff's Department	Burglary II	08-17-88	Pled down to Criminal Mischief II, Guilty Sentenced to 12 months, Fined \$100.00
05-05-89	Dothan Police Department	Assault III	10-09-89	Dismissed
12-12-90	Houston County Circuit Court 38 CC 91-217	Sexual Abuse I	11-15-91	Pled down to Assault III, Guilty, Sentenced to 12 Months Suspended, 3 Years Probation, Fined \$250.00
06-01-92	Dothan Police Department	Indecent Exposure	07-02-92	Dismissed
12-08-94	Headland Police Department	Reckless Endangerment	06-02-99	Acquitted
11-20-95	Houston County Circuit Court 38 CC 96 -740	Rape I	11-20-95	Dismissed

11-20-95	Houston County Circuit Court 38 CC 96-730	Sodomy I	10-30-96	Pled down to Sodomy II, Convicted, Sentenced to Life
12-13-95	Houston County Circuit Court 38 CC 95-1475	Rape I	12-13-95	Dismissed
04-15-98	Houston County Circuit Court 38 CC 98-1049	Enticing a Child for Immoral Purposes	11-19-98	Acquitted
05-08-03	Houston County Circuit Court 38 CC 03-1340	Conspiracy to Commit Arson	11-30-04	Remanded to the Grand Jury
05-08-03	Houston County Circuit Court 38 CC 03-1339	Theft by Deception I		Set for Jury Trial 01-10-05

**Subsequent Arrest Record:**

<u>Arrest Date</u>	<u>Court</u>	<u>Offense</u>	<u>Disposition Date</u>	<u>Disposition</u>
09-02-03	Barbour County Sheriff's Department	Arson II	09-25-03	Guilty, Sentenced to 15 Years, Split 2

**PERSONAL/SOCIAL HISTORY****Subject:**

Ralph Wilson Lingo age 42, is a white male with a date of birth of 02-04-62. He is the eldest of 2 children born to James B. Lingo and Nattie Ruth Lingo of Dothan, Alabama. Ralph Lingo is born in Dale County, but has lived in the Dothan area his entire life.

**Marital Status/History:**

Records indicate that Ralph Lingo has been married to a Charlene Lewis and also a Debra Tice Blackstone. Mr. Lingo is currently incarcerated with the Alabama Department of Corrections, therefore, no current marital status history was able to be obtained.

**Health:**

Records indicate that subject does not have any physical disabilities, and that he has never been treated for any mental or emotional problems.

**Education:**

Records indicate that Ralph Lingo completed the 8<sup>th</sup> Grade prior to dropping out. It is unknown whether Mr. Lingo has furthered his education or had any other type of training.

**Financial Status:**

Unknown

**Employment History:**

Records indicate that the subject has worked full time in the Lawn Care and Landscaping Field. He has also been employed with Easom Plumbing, Twitchell Corp., and Whitehead Milling Company.

**Military Record:**

Unknown

**Offender's Family:****Father:**

James B. Lingo, whereabouts unknown.

**Mother:**

Nattie Ruth Lingo, whereabouts unknown.

**Siblings:**

Brother-Ricky Lingo, whereabouts unknown.

**EVALUATION OF OFFENDER**

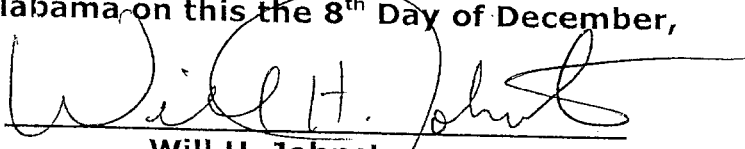
**Psychological Reports:**

As there were no psychological reports available, no evaluation was made.

**Probation and Parole Officer's Remarks:**

This Officer recommends a medium to maximum sentence with the Alabama Department of Corrections.

Signed and dated in Dothan, Alabama on this the 8<sup>th</sup> Day of December, 2004.

  
Will H. Johnston  
Alabama Probation and Parole Officer

WHJ/sa

On the 30<sup>th</sup> day after the Clerk transmits to the Department of Corrections a copy of this judgment entry and sentence, if the Department has not directed the Sheriff where the Defendant shall be taken for confinement, the Sheriff is hereby ordered to transport Defendant forthwith to the Department's receiving center at Kilby/Tutweiler (circle) and effectuate the transfer of the Defendant to the custody of the Department. In the event the Department refuses to accept the Defendant in compliance with state law, the Sheriff is ordered to secure the Defendant to the property at the Department's receiving center.

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Said sentence shall run ☒ consecutive or ☐ concurrent with case number (s)

*with any sentence currently being served*

☐ said sentence is suspended for \_\_\_\_\_ years on the condition of good behavior and payment of all fines, costs, and restitution.

☐ The Defendant is hereby given credit for the days spent incarcerated pending trial.

Defendant is also ordered to pay:

☒ A fine of \$ 10,000.00

☒ A Victim Compensation Assessment of \$ 1,000.00

☒ All Court Costs.

☐ Restitution of \$ \_\_\_\_\_ to \_\_\_\_\_

☐ Drug Demand Reduction Act Assessment of \$1,000.00.

☐ Alabama Forensics Sciences Trust Fund \$100.00.

☐ Alabama Dept. of Forensic Sciences-Dothan Division \$ \_\_\_\_\_

☐ Investigation restitution to ☐ DPD ☐ HCSO \$ \_\_\_\_\_

#### ADDITIONAL SENTENCE PROVISION ORDERED ARE:

☐ Completion of a substance abuse program CRO

☐ The Department of Public Safety is ordered to comply with Alabama Code 13A-12-290 by suspending Defendant's drivers license for six months.

☐ Continued on same bond.

☐ Appeal bond is set at \$ \_\_\_\_\_

☐ Indigency status granted and free transcript is ordered.

#### PROBATION:

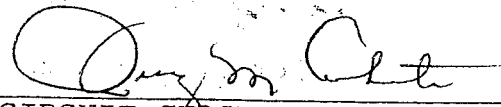
☐ Defendant applies for probation.

☐ Defendant waives application for probation.

☐ Probation hearing is set for the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ at \_\_\_\_\_

☐ Defendant to remain on same bond pending probation hearing

DONE this the 9<sup>th</sup> day of December, 2004...

  
CIRCUIT JUDGE

December 9 2004 - Dept given oral notice  
 of appeal to Alabama Court of Criminal  
 Appeals. Dept allowed free transcript.  
 Patrick Adams appointed to represent  
 dept on appeal. Bail set \$50,000  
 Clerk to notify Dept, Ct of Criminal Appeal  
 and Mr. Adams.

(1-4-05 N:BA, PA, JAIL)

Dept mls. Inagamon 10 sub 801-101

The State of Alabama  
Houston County Courthouse  
Dothan, Alabama

216

12-9-2004

Filing an appeal on intimidating a state witness.

I, Ralph Wilson Lingo, am giving the court notice of appeal for intimidating a state witness. Case number: 03-000599.00. I want an appeal bond, and the court reporters name and address, and a copy of the transcript, and who is doing my appeal. I am filing indigence. Please stamp with a court seal and send a copy back to me, and please write a letter in a clerk of court letter head stating that I have filed for an appeal, 13A-10-123 against Debra Blackstone

Ralph Lingo 12-9-2004

Filed in office

12/14/04 Judy Bend, clerk



Today's date: 12-9-04  
**FILED**

The state of Alabama

Houston County

The city of Dothan

DEC 14 2004

Judy Byrd

case number: 03-000589  
JUDY BYRD, CLERK  
HOUSTON CO., AL

Filing in the Houston County court  
with the clerk of court Judy Byrd

Please Give this letter to Judge White, and Keep a copy  
on file.

I, Ralph Lingo, am asking the court to  
appoint to me Steve McGowan, attorney at  
law, to represent me in my appeal for intimidating  
a state witness, and to file a direct appeal.  
I have been talking to Mr. McGowan about this  
case, but I have not had the money to hire  
him. So I asked him if he would take it  
being court appointed and he said he would.  
I ask you Judge White to appoint me Steve  
McGowan to handle my appeal.

Steve McGowan

Attorney at Law

office: (334) 678-8200

119. S. Foster St.

Fax: (334) 678-1497

Suite 101

Toll Free: 1-888-944-5500

P.O. Box 2101

Dothan, AL 36301

Judge White, if you will do this I would appreciate it.

Please stamp and send a copy

Back. Thank You.

Ralph Lingo 12-9-2004

FOR INTIMIDATING  
STATE WITNESS;

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2003-000599,00

12-14-04

13A-10-123(a)

FILING IN THE HOUSTON COUNTY COURT HOUSE  
IN THE STATE OF ALABAMA, I ASK JUDGE  
WHITE TO RESPECTFULLY APPOINT STEVE MAGALE  
TO BE MY APPEAL ATTORNEY AND I ALSO ASKING  
THE COURT TO ALLOW STEVE MAGALE TO FILE A  
DIRECT APPEAL. I AM ASKING THAT THE COURT  
CLERK PLEASE CONTACT ME IMMEDIATELY AND  
I AM ALSO REQUESTING THAT THE COURT SEND  
A COPY OF ALL SUBPOENA I'VE FILED WITH THE  
COURT CLERK'S OFFICE. I DO NEED THE STAMP SEAL  
INDICATED ON SUBPOENA. PLEASE NOTE THAT  
STEVE PRACTICE LAW WITH TOMMY SCARBOROUGH  
I DO NOT KNOW STEVE EXACT LAST NAME  
STEVE ADDRESS, 119 S. FOSTER ST.

SUITE 101

PO BOX 2101

DOTHAN, AL 360302

**FILED**

DEC 17 2004

Judy Byrd

JUDY BYRD, CLERK  
HOUSTON GOAL

I ASKED JUDGE WHITE TO RESPECTFULLY APPOINT  
STEVE TO REPRESENT ME ON ALL CURRENT CASES

PETITION TO CIRCUIT CLERK MS JUDY BYRD TO KEEP ON FILE

Ralph Lingo 12-14-2004

ACR371

ALABAMA JUDICIAL DATA CENTER

219

NOTICE OF APPEAL TO THE ALABAMA COURT OF CRIMINAL APPEALS  
BY THE TRIAL COURT CLERK

IN THE CIRCUIT COURT OF HOUSTON COUNTY

STATE OF ALABAMA VS LINGO RALPH WILSON JUDGE: JERRY M. WHITE

APPEAL DATE: 12/09/2004

## INDIGENCY STATUS:

GRANTED INDIGENCY STATUS AT TRIAL COURT:	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
APP. TRIAL COUNSEL PERMITTED TO W/D ON APPEAL:	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
INDIGENT STATUS REVOKED ON APPEAL:	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
INDIGENT STATUS GRANTED ON APPEAL:	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO

DEATH PENALTY: NO

APPEAL TYPE: STATE CONVICTION

THIS IS AN APPEAL FROM A CONVICTION.

DATE OF CONVICTION: 11/04/2004

DATE OF SENTENCE: 12/09/2004

YOUTHFUL OFFENDER STATUS: DENIED

CO/CASE NUMBER: 38/CC 2003 000599.00

CODE: INTI CONVICTION: INTIMIDATING A W

ACTION: CONVICTED  
STATUTE: 13A-010-123

SENTENCE: CONF: 20 YRS 00 MOS 000 DAYS

SENTENCE: PROB: 00 YRS 00 MOS 000 DAYS

LIFE: NO LIFEWD: NO

## POST-JUDGMENT MOTIONS FILED:

<input checked="" type="checkbox"/> MOTION FOR NEW TRIAL	DT FILED 11/10/2004	DT DENIED 11/18/2004	CON BY AGREE
<input checked="" type="checkbox"/> MOTION FOR JUDGE OF ACQUIT	11/03/2004	11/03/2004	
<input type="checkbox"/> MOTION TO W/D GUILTY PLEA			
<input type="checkbox"/> MOTION FOR ATTY TO W/DRAW			
<input type="checkbox"/> OTHER			

COURT REPORTER(S):

ADDRESS:

WOODALL, CARLA H.  
C/O HOM. LARRY ANDERSON  
DOTHAN, AL 36302

APPELLATE COUNSEL #1:

ADDRESS:

AMASON JON-PATRICK  
401 N FOSTER STREET

PHONE NUMBER:

DOTHAN, AL 36303  
334-793-9009

APPELLATE COUNSEL #2:

ADDRESS:

PHONE NUMBER:

APPELLANT (PRO SE):

ADDRESS:

LINGO RALPH WILSON  
X HOUSTON COUNTY JAIL  
DOTHAN, AL 363020000

AIS #:

APPELLEE (IF CITY APPEAL):

ADDRESS:

I CERTIFY THAT THE INFORMATION PROVIDED  
ABOVE IS ACCURATE TO THE BEST OF MY  
KNOWLEDGE AND I HAVE SERVED A COPY OF  
THIS NOTICE OF APPEAL ON ALL PARTIES TO  
THIS ACTION ON THIS 14 DAY OF January, 2005

OPERATOR: RHM  
PREPARED: 01/04/2005Judy B...  
CIRCUIT COURT CLERK

State of Alabama  
Unified Judicial System

Form ARAP- 26 (front) 8/91

COURT OF CRIMINAL APPEALS  
DOCKETING STATEMENT

Criminal Appeal Number

220

## GENERAL INFORMATION:

☒ CIRCUIT COURT ☐ DISTRICT COURT ☐ JUVENILE COURT OF Houston COUNTY  
Ralph Wilson Lingo, Appellant

V. ☒ STATE OF ALABAMA ☐ MUNICIPALITY OF \_\_\_\_\_

Case Number <u>CC-03-599</u>	Date of Complaint or Indictment <u>9-5-03</u>	Date of Judgment/Sentence/Order <u>12-9-04</u>
Number of Days of Trial/Hearing Days	Date of Notice of Appeal Oral: <u>12-9-04</u>	Written:
Indigent Status Requested: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Indigent Status Granted: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		

## B. REPRESENTATION:

Is Attorney Appointed or Retained? <input checked="" type="checkbox"/> Appointed <input type="checkbox"/> Retained.	If no attorney, will appellant represent self? <input type="checkbox"/> Yes <input type="checkbox"/> No
Appellant's Attorney (Appellant if pro se) (Attach additional pages if necessary) <u>Jon-Patrick Amason</u>	Telephone Number <u>334-793-9009</u>
Address <u>401 N. Foster Street</u>	City <u>Dothan</u>
State <u>AL</u>	Zip Code <u>36301</u>

## C. CODEFENDANTS: List each CODEFENDANT and the codefendant's case number.

Codefendant	Case Number
Codefendant	Case Number
Codefendant	Case Number

**FILED**

JAN 05 2005

## D. TYPE OF APPEAL: Please check the applicable block.

- 1 ☒ State Conviction 4 ☐ Pretrial Order 7 ☐ Juvenile Transfer Order  
 2 ☐ Post-Conviction Remedy 5 ☐ Contempt Adjudication 8 ☐ Juvenile Delinquency  
 3 ☐ Probation Revocation 6 ☐ Municipal Conviction 9 ☐ Habeas Corpus Petition

10 ☐ Other (Specify)  
JUDY BYRD, CLERK  
HOUSTON CO., AL

## E. UNDERLYING CONVICTION/CHARGE: Regardless of the type of appeal checked in Section D, please check the box beside each offense category for which the appellant has been convicted or charged as it relates to this appeal. Also include the applicable section of the Code of Alabama for State convictions.

- |                                                                       |                                                                      |                                                                           |
|-----------------------------------------------------------------------|----------------------------------------------------------------------|---------------------------------------------------------------------------|
| 1 <input type="checkbox"/> Capital Offense - § _____                  | 6 <input type="checkbox"/> Trafficking in Drugs - § _____            | 11 <input type="checkbox"/> Fraudulent Practices - § _____                |
| 2 <input type="checkbox"/> Homicide - § _____                         | 7 <input type="checkbox"/> Theft - § _____                           | 12 <input type="checkbox"/> Offense Against Family - § _____              |
| 3 <input type="checkbox"/> Assault - § _____                          | 8 <input type="checkbox"/> Damage or Intrusion to Property - § _____ | 13 <input type="checkbox"/> Traffic - DUI - § _____                       |
| 4 <input type="checkbox"/> Kidnapping/Unlawful Imprisonment - § _____ | 9 <input type="checkbox"/> Escape - § _____                          | 14 <input type="checkbox"/> Traffic - Other - § _____                     |
| 5 <input type="checkbox"/> Drug Possession - § _____                  | 10 <input type="checkbox"/> Weapons/Firearms - § _____               | 15 <input type="checkbox"/> Miscellaneous (Specify):<br><u>13A-10-123</u> |

## F. DEATH PENALTY:

Does this appeal involve a case where the death penalty has been imposed? ☐ Yes ☒ No

## G. TRANSCRIPT:

1. Will the record on appeal have a reporter's transcript? ☒ Yes ☐ No  
 If the answer to question "1" is "Yes," state the date the Reporter's Transcript Order was filed. 1-5-05 (Date)  
 J. If the answer to question "1" is "No":  
 (a) Will a stipulation of facts be filed with the circuit clerk? ☐ Yes ☐ No  
 (b) Will the parties stipulate that only questions of law are involved and will the trial court certify the questions? ☐ Yes ☐ No

NOTE: If the appeal is from the district or juvenile court and the answer to question "1" is "No," then a positive response is required for question 3(a) or 3(b).

Form ARAP- 26 (back) 8/91

## COURT OF CRIMINAL APPEALS DOCKETING STATEMENT

H. POST-JUDGMENT MOTIONS: List all post-judgment motions by date of filing, type, and date of disposition (whether by trial court order or by the provisions of Rules 20.3 and 24.4 (ARCrP)):

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DATE OF FILING			TYPE OF POST-JUDGMENT MOTION	DATE OF DISPOSITION		
Month	Day	Year		Month	Day	Year
11	10	04	Motion for New trial	11	18	04
11	3	04	Motion for judgment of Acquittal	11	3	04

I. NATURE OF THE CASE: Without argument, briefly summarize the facts of the case.

New Attorney appointed on appeal.

Do not know yet.

J. ISSUE(S) ON APPEAL: Briefly state the anticipated issues that will be presented on appeal. (Attach additional pages if necessary.)

New Attorney appointed on appeal.

Do not know yet.

... SIGNATURE:

Date

1-5-05

Signature of Attorney/ Party Filing this Form



State of Alabama  
Unified Judicial System

## REPORTER'S TRANSCRIPT ORDER -- CRIMINAL

Criminal Appeal Number

Form ARAP-1C

8/91

See Rules 10(c) and 11(b) of the  
Alabama Rules of Appellate Procedure (A.R. App.P.)

COMPLETED BY COUNSEL FOR THE APPELLANT OR BY THE APPELLANT IF NOT REPRESENTED AND FILED WITH THE WRITTEN NOTICE OF APPEAL OR FILED WITHIN 7 DAYS AFTER ORAL NOTICE OF APPEAL IS GIVEN.

☒ CIRCUIT COURT ☐ DISTRICT COURT ☐ JUVENILE COURT OF Houston COUNTY  
Ralph Wilson Lingo, Appellant
V. ☒ STATE OF ALABAMA ☐ MUNICIPALITY OF \_\_\_\_\_

Case Number

CC-03-599

Date of Judgment/Sentence/Order

December 9<sup>th</sup> 2004

Date of Notice of Appeal

Oral: 12-9-04

Written: \_\_\_\_\_

Indigent Status Granted:

☒ Yes ☐ No

## PART 1. TO BE SIGNED IF THE APPEAL WILL NOT HAVE A COURT REPORTER'S TRANSCRIPT:

I CERTIFY THAT NO REPORTER'S TRANSCRIPT IS EXPECTED AND THAT THE RECORD ON APPEAL SHALL CONSIST OF THE CLERK'S RECORD ONLY. IF THE APPEAL IS FROM DISTRICT COURT OR JUVENILE COURT, I ALSO CERTIFY (1) THAT A STIPULATION OF FACTS WILL BE INCLUDED IN THE CLERK'S RECORD AND THAT THE APPELLANT WAIVES HIS RIGHT TO A JURY TRIAL IF SO ENTITLED; OR (2) THAT THE PARTIES HAVE STIPULATED THAT ONLY QUESTIONS OF LAW ARE INVOLVED AND THAT THE QUESTIONS WILL BE CERTIFIED BY THE JUVENILE/DISTRICT COURT FOR INCLUSION IN THE CLERK'S RECORD (SEE RULE 28(A)(1), ALABAMA RULES OF JUVENILE PROCEDURE, AND §12-12-72, CODE OF ALABAMA 1975).

Signature

Date

Print or Type Name

## PART 2. DESIGNATION OF PROCEEDINGS TO BE TRANSCRIBED. Request is hereby made to the court reporter(s) indicated below for a transcript of the following proceedings in the above referenced case (see Rule 10(c)(2), Alabama Rules of Appellate Procedure (A.R. App.P.)):

## MARK PROCEEDINGS REQUESTED:

- A. ☒ TRIAL PROCEEDINGS - Although this designation will include the judgment and sentence proceedings, a transcript of the organization of the jury and arguments of counsel must be designated separately.
- B. ☐ ORGANIZATION OF THE JURY - This designation will include voir dire examination and challenges for cause. Note that in noncapital cases the voir dire of the jury will not be recorded unless the trial judge so directs. (See Rule 19.4, ARCP.)
- C. ☐ ARGUMENTS OF COUNSEL - Note that in noncapital cases the arguments of counsel will not be recorded unless the trial judge so directs. (See Rule 19.4, ARCP.)

COURT REPORTER(S)

Carla Woodall

IN ADDITION TO ANY PROCEEDINGS DESIGNATED ABOVE, SPECIAL REQUEST IS HEREBY MADE TO INCLUDE THE FOLLOWING PROCEEDINGS IN THE REPORTER'S TRANSCRIPT PORTION OF THE RECORD ON APPEAL. (ATTACH ADDITIONAL PAGES IF NECESSARY):

ADDITIONAL PROCEEDINGS REQUESTED

DATE

- D. \_\_\_\_\_
- E. \_\_\_\_\_
- F. \_\_\_\_\_
- G. \_\_\_\_\_

FILED

JAN 05 2005

JUDY BYRD, CLERK  
HOUSTON CO., AL

**IMPORTANT NOTICE:** The court reporter who reported the proceedings for which a transcript is requested must be identified on this form to be effective. Additionally, it is important to note that the appellant may not be permitted to raise any issue on appeal relating to any proceedings in the case that are not specifically designated on this form for inclusion in the reporter's transcript. A general designation such as "all proceedings" is not sufficient. (See Rule 10(c)(2), A.R. App.P.)

## PART 3. MUST BE SIGNED IF THE APPEAL WILL HAVE A COURT REPORTER'S TRANSCRIPT:

I CERTIFY THAT I HAVE DISTRIBUTED THIS FORM AS SET OUT BELOW. I ALSO CERTIFY (1) THAT I HAVE MADE SATISFACTORY FINANCIAL ARRANGEMENTS WITH EACH COURT REPORTER LISTED ABOVE FOR PREPARING HIS OR HER PORTION OF THE REPORTER'S TRANSCRIPT HEREIN REQUESTED; OR (2) THAT THE APPELLANT PROCEEDED AT TRIAL AS AN INDIGENT AND THAT THAT STATUS HAS NOT BEEN REVOKED; OR, (3) THAT THE APPELLANT HAS BEEN GIVEN PERMISSION TO PROCEED ON APPEAL IN FORMA PAUPERIS.

Signature

Date

Print or Type Name

**DISTRIBUTION:** Original filed with Clerk of Trial Court and copies mailed to: (1) Clerk of the Court of Criminal Appeals, (2) the District Attorney, (3) the Attorney General or the municipal prosecutor in lieu of the District Attorney and the Attorney General if the appeal is from a municipal conviction, and (4) to each Court Reporter who reported proceedings designated for inclusion in the reporter's transcript.

(CIVIL / CRIMINAL)

IN THE CIRCUIT COURT OF Houston COUNTY  
Dallas / LADAMA - COUNTY SEAT

APPELLANT: Ralph Wilson King

VS.

STATE OF ALABAMA - of -

appellant

appellee

TO: (name) Judy Byrd

OF CIRCUIT COURT OF

FROM: (name) Carla H. Woodall

COURT REPORTER OF:

20TH JUDICIAL CIRCUIT OF ALABAMA

REPORTER'S INDEX TO EXHIBITS

[NOTE: (✓) check appropriate]

[illegible]

1) ABOVE INDEX RECEIVED & FILED 1-28 105  
2) EXHIBITS IN FILE &/OR CONTAINER VERIFIED (except as noted)

DATED THIS 28 DAY OF January, 2005

151

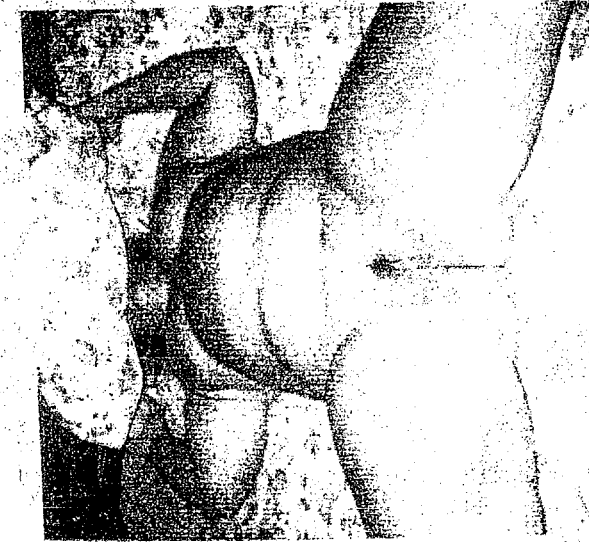
CLERK, REGISTER, or AUTHORIZED ASST.  
CLERK'S OFC. ☒ - REGISTER'S OFC. ( )

/s/

COUNT. REPORTER  
20TH JUDICIAL CIRCUIT

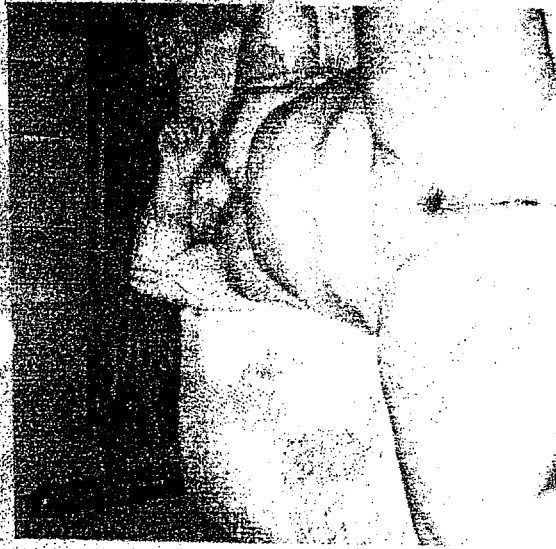
STATE'S EXHIBIT NUMBER 1



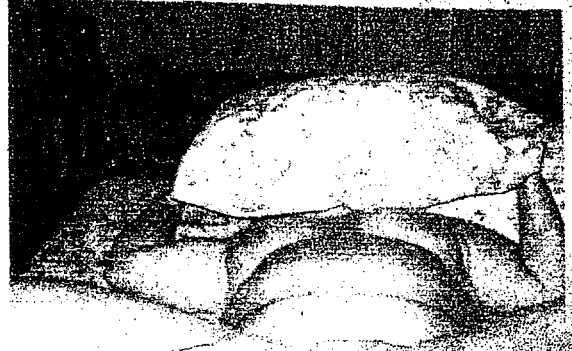


#2

I do not want any trouble with you. You know the law is on me real bad, trying to get anything on me. You know all about it, but I ain't guilty. I was framed and setup by Sue, I didn't know anything about it until it was all over with. I told the internal Revenue a little about you, but not enough to get you in any trouble, I would never do that. Unless I was forced to do so.



4 out of 20 Pictures



#1

you brought this on your own self. No one has seen these. You tricked me and you did something very, very wrong. I still have the phone. I can ruin you real badly. Fraud counts against you and the internal revenue. You love Blacks, and cops but you don't think more than 3,000 of these will be placed all over Detroit. Every stop sign, light poles, just think again. Copies are made ~~every~~ you better see me or I will have to start defending myself.



# 3

you know I can hurt you by a lot of people you ran off from my buissness, that you have cussed out I know at least three of these people want to sign warrants on you right now. I know why you did all of this is because of your lover, so here's the way it will go, you can keep your black lovers, your cop lovers, I haven't done anything but help you and giving you money. Yes I was trying to fight to keep ~~you~~ you, and to make sure you had plenty of money every week. That was what I wanted to do to keep you, to make sure you had your medication, money, and whatever your kid needed. I will never call you again, I will never contact you again, you drop your phony warrant or you will be sued at the right time and be arrested with warrants against you. I will push the internal revenue to step in to investigate you, also GE to investigate you also, I will do whatever it takes to ruin you, destroy you, your name. You have lied on me, and tricked me with a phone call, and there's some stuff on you I won't mention, if you don't want to go down you better back off from me. I will be going to have a meeting with my investigators and I will put them on the case, I kept you out of these trials like you asked me but you will be in 3 in the near future, under oath. These phone tapes will prove you deal with a lot of customers. You want me to nail you, but you remember the fox. You know what this means. I am leaving and going to the beach this weekend, I will have my cell phone with me. I don't want to talk or see anyone but you face to face, to talk out our differences, you know my number, I am very depressed I have cried a million tears over you.

#4

I am not threatening you in any way. I am making you a promise. You have 24 hours to see me face to face, and we will start to work to defending myself against accusations which aren't true. Debra this will be up to you, you know my cell number. ~~QQQQQQ~~ IF you want to meet me to work this thing out, then I'd be more than willing to show you I'm not joking with you. Three of your family members will get a copy of a video tape and a copy of these pictures along with copies of phone tapes, this weekend. I have not got any of this in my possession, all it would take is a phone call, and it will be delivered. You have 24 hours for these to start coming out on you. You want to go to the law, fine, we will also tell the law a lot of shit too, and it won't stop there. I know you have these judges on your side, but you just don't know what I know. I don't want any problems out of you, it's your money and your life, do you want it destroyed or a person to person talk to work all of this out. I might not word this letter right, but one of your friends knows how to contact me, this will be up to you. I will have to do what I have to do. Thank you Very Much. We can work this out and go our ~~separate~~ separate ways.

Take this the way you want to take this. It's your Choice.

Thank you

STATE'S EXHIBIT # 2



RIGHTS FORM

227-A

Name: Ralph Lingo AIS: 190083  
Race: W Sex: M DOB: July 4-62  
Education: -0-  
Place: Bullett Co. Corr. Inst.  
Date: 10-13-04 Time: 9:35 AM  
Charge: Sol. Murder

Before we ask you any questions, you must understand your rights.

You have the right to remain silent. Anything you say can and will be used against you in court.

You have the right to have a lawyer present to advise you before we ask you any questions and to have him present with you during the entire time you are being questioned.

If you cannot afford to hire a lawyer, one will be appointed to represent you if you wish without any cost to you.

You have the right to have him present to advise you before we ask any questions and also during the entire time you are being questioned.

You also have the right to stop answering at any time until you talk to a lawyer.

Do you understand your rights?

WAIVER OF RIGHTS

I have read this statement of my rights and I understand what my rights are. I am willing to make a statement and answer questions. I do not want a lawyer at this time. I understand what I am doing. No promises or threats have been made to me and no pressures or coercion of any kind has been used against me.

Signed: Ralph Lingo 10-13-2004 9:40 AM

WITNESS: \_\_\_\_\_

WITNESS: \_\_\_\_\_

TIME: \_\_\_\_\_

STATE'S EXHIBIT NUMBER 3

228 -A

**STATEMENT OF INMATE RALPH LINGO**

This is a taped-recorded interview with Inmate Ralph Lingo, AIS 190083. This interview is being conducted at Bullock County Correctional Facility on 10-13-04.

ES Ralph, state your name and AIS.

RL Ralph Lingo, 190083.

ES Ralph, we've been discussing an alleged threat against a Ms. Debra Blackstone. Do you know Debra?

RL Yeah I know Debra.

ES What relation are you to her?

RL Debra is my ex-wife.

ES Ex-wife?

RL Yes sir.

ES Okay. And I believe Debra was also a witness against you in some (inaudible) tapes. Is that correct?

RL Debra is more or less like a uh yeah a witness. Uh more or less like she was dating me (inaudible) me time when the this (inaudible) occur.

ES Okay. But is she a witness (inaudible)?

RL (inaudible) yes sir (inaudible) I mean, she a witness, but that's all I know. She just was you know dating me at the time

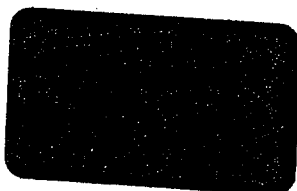
ES Okay. While you was in the Houston County Jail, did you talk to any other inmates at the Houston County Jail about taking care of Debra by burning her house down with her in it?

RL I ain't never made a statement for anybody no one not no one to hurt Debra Blackstone or nobody else.

ES Do you have a case pending or is that case already been tried of threatening a witness?

RL You mean intimidating the

ES Intimidating the witness. Okay.



229

- RL     Alright, the phone regiment had been tried. Uh the (inaudible) and that had been tried and I was found guilty on that and now the intimidating of the state witness uh had not been tried. (Inaudible) tried.
- ES     Uh, so you have threatened Debra before by sending a person to her house with a naked picture of her?
- RL     By only telephone. This here is something (inaudible) it didn't mean
- ES     It doesn't matter what kind well what kind of case it is. Whether it was telephone harassment or whatever. You sent a person to her house with a naked picture of her. Is that correct?
- RL     That person didn't know what were in there.
- ES     I (inaudible) Debra knew what was in it. There was a naked picture
- RL     Debra did.
- ES     There was a naked picture of Debra in there.
- RL     That true.
- ES     Well why did you send that picture to Debra?
- RL     (Inaudible) the way for for you go in (inaudible) I got a case coming up on that. I mean you might
- ES     Hay, you've been advised of your rights. You got a right to stop answering at any time you want to. (Inaudible)
- RL     Well we'll stop it right now.
- ES     That completed this interview at uh 12 minutes til 10 a.m.

ES/ch





ACR371

ALABAMA JUDICIAL DATA CENTER

NOTICE OF APPEAL TO THE ALABAMA COURT OF CRIMINAL APPEALS  
BY THE TRIAL COURT CLERK

IN THE CIRCUIT COURT OF HOUSTON COUNTY

ATE OF ALABAMA VS LINGO RALPH WILSON JUDGE: JERRY M. WHITE

APPEAL DATE: 12/09/2004

## INDIGENCY STATUS:

GRANTED INDIGENCY STATUS AT TRIAL COURT: ☒ YES ☐ NOAPP. TRIAL COUNSEL PERMITTED TO W/D ON APPEAL: ☐ YES ☒ NOINDIGENT STATUS REVOKED ON APPEAL: ☐ YES ☒ NOINDIGENT STATUS GRANTED ON APPEAL: ☒ YES ☐ NO

DEATH PENALTY: NO

APPEAL TYPE: STATE CONVICTION

THIS IS AN APPEAL FROM A CONVICTION.

DATE OF CONVICTION: 11/04/2004

DATE OF SENTENCE: 12/09/2004

YOUTHFUL OFFENDER STATUS: DENIED

CO/CASE NUMBER: 38/CC 2003 000599.00

CODE: INTI CONVICTION: INTIMIDATING A W

ACTION: CONVICTED

STATUTE: 13A-010-123

SENTENCE: CONF: 20 YRS 00 MOS 000 DAYS

SENTENCE: PRDB: 00 YRS 00 MOS 000 DAYS

LIFE: NO LIFENO: NO

POST-JUDGMENT MOTIONS FILED: DT FILED

DT DENIED

CON BY AGREE

☒ MOTION FOR NEW TRIAL 11/10/2004

11/18/2004

☒ MOTION FOR JUDGE OF ACQUIT 11/03/2004

11/03/2004

☐ MOTION TO W/D GUILTY PLEA☐ MOTION FOR ATTY TO W/DRAW

OTHER

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C/O HOM. LARRY ANDERSON

DOTHAN, AL 36302

APPELLATE COUNSEL #1:

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PHONE NUMBER:

DOTHAN

334-793-9009 AL 36303

APPELLATE COUNSEL #2:

ADDRESS:

PHONE NUMBER:

APPELLANT (PRO SE):

ADDRESS:

LINGO RALPH WILSON

7 HOUSTON COUNTY JAIL

DOTHAN, AL 363020000

AIS #:

APPELLEE (IF CITY APPEAL):

ADDRESS:

I CERTIFY THAT THE INFORMATION PROVIDED  
ABOVE IS ACCURATE TO THE BEST OF MY  
KNOWLEDGE AND I HAVE SERVED A COPY OF  
THIS NOTICE OF APPEAL ON ALL PARTIES TO  
THIS ACTION ON THIS 4th DAY OF January, 2005OPERATOR: RHM  
PREPARED: 01/04/2005Judy Bird  
CIRCUIT COURT CLERK

IN THE CIRCUIT COURT OF HOUSTON COUNTY  
STATE OF ALABAMA

STATE OF ALABAMA,

v.

RALPH WILSON LINGO,

Defendant.

\*  
\*  
\*  
\*  
\*  
\*

Case No. CC-2003-599

REPORTER'S OFFICIAL TRANSCRIPT ON APPEAL

Before:

The Honorable Jerry M. White and jury

November 3, 2004

APPEARANCES:

For the State

Henry C. Binford, Esquire  
Assistant District Attorney

For the Defendant

Tammy Stinson, Esquire  
Dothan, Alabama

Carla H. Woodall, CSR  
Court Reporter

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\* There were no exhibits for the Defense. \*

PROCEEDINGS

(Jury venire present.)

THE COURT: Ladies and gentlemen of the jury panel, at this time I'm going to ask the clerk to call the roll. And when she calls your name, if you would, stand so these attorneys can identify you. And once you've stood and announced your presence, then you may take a seat back where you are.

(At which time the roll of the jury was called by the clerk.)

THE COURT: Now, ladies and gentlemen, I need to qualify you at this time as to the case of the State of Alabama versus Ralph Wilson Lingo who is charged with the offense of intimidating a witness. This is Mr. Lingo sitting here at the table in the blue shirt with his attorney, Ms. Tammy Stinson. And the case is being prosecuted by Mr. Henry Binford over here.

If the answers to any of these questions apply to any of you ladies and gentlemen, if you will, please let me know.

Now, was either of you on the grand jury of Houston County, Alabama, which returned this indictment against Ralph Wilson Lingo



1 charging him with intimidating a witness, that  
2 being the grand jury of this county which met on  
3 the 5th of September, 2003? Was either of you on  
4 that grand jury?

5 (No response.)

6 THE COURT: Or is either of you a witness in  
7 this case either for the State of Alabama or for  
8 the Defendant, Ralph Wilson Lingo?

9 (No response.)

10 THE COURT: Or is either of you related by  
11 blood or by marriage to Ralph Wilson Lingo or to  
12 Debra Tice Blackstone?

13 (No response.)

14 THE COURT: Ms. Blackstone lives here in  
15 Dothan at 402 Emmons Avenue. Any of you related  
16 by blood or by marriage to either of those  
17 people?

18 (No response.)

19 THE COURT: Has either of you heard anything  
20 about the facts in this case, have you read or  
21 seen anything about the facts in this case that  
22 would bias your mind, prejudice your verdict, and  
23 prevent you from giving a fair and impartial trial  
24 both to the State of Alabama and to this Defendant  
25 if you were selected as a juror to try this case?

1 (No response.)

2 THE COURT: Or does either of you have a  
3 fixed opinion as to the guilt or the innocence of  
4 this Defendant?

5 (No response.)

6 THE COURT: Does either of you have any  
7 interest in the conviction or the acquittal of the  
8 Defendant, Ralph Wilson Lingo?

9 (No response.)

10 THE COURT: Or has either of you made any  
11 promise or given any assurance that you would  
12 either convict or acquit this Defendant if you  
13 were selected as a juror to try the case?

14 (No response.)

15 THE COURT: Questions for the State, Mr.  
16 Binford.

17 MR. BINFORD: Thank you, Judge.

18 (At which time Mr. Binford further  
19 qualified the jury venire.)

20 THE COURT: Questions for the Defendant, Ms.  
21 Stinson.

22 (At which time Ms. Stinson further  
23 qualified the jury venire.)

24 THE COURT: Any of you ladies and gentlemen  
25 have anything that you need to discuss with us at

1 the bench concerning the questions that were  
2 asked?

3 (Hands raised.)

4 THE COURT: Let's just take the first row.

5 (At which time the following proceedings  
6 were held at the bench outside of the  
7 hearing of the jury venire:)

8 A JUROR: My name is Natalie Evans, and I had  
9 a DUI conviction in 1989 or '88.

10 THE COURT: Thank you, ma'am.

11 Yes, ma'am?

12 A JUROR: My son has had a DUI. We did this  
13 the other day.

14 THE COURT: Okay. That's Ms. Gilmer.

15 (At which time the following proceedings  
16 were held in open court:)

17 THE COURT: Anybody on the second row?

18 (Hand raised.)

19 (At which time the following proceedings  
20 were held at the bench outside of the  
21 hearing of the jury venire:)

22 A JUROR: I was convicted of something when I  
23 was younger, eighteen. It was youthful offender.  
24 But the State prosecuted me. Do you need to know  
25 details or what?

1 MR. BINFORD: Would it matter to you --

2 A JUROR: Not really.

3 MR. BINFORD: Would it matter to you if you  
4 were on this trial and we're the D.A. and I guess  
5 the people that prosecuted you? Would it matter  
6 to you if you sat on this jury?

7 A JUROR: I don't know. It was a long time  
8 ago.

9 MS. STINSON: Was it in Houston County?

10 A JUROR: Henry.

11 Probably not.

12 MR. BINFORD: You think you might look at law  
13 enforcement a little differently than someone else  
14 who did not have to go through what you went  
15 through?

16 A JUROR: No. Because I was wrong. But the  
17 guy didn't want to press charges and the State  
18 did. So it kind of left a sore place a long time  
19 ago. But I'm over it now. I just wanted to be  
20 honest.

21 MS. STINSON: What was your name again?

22 A JUROR: Joel Kirkland.

23 THE COURT: Yes, sir?

24 A JUROR: James French. To answer one of his  
25 questions that was said yesterday, my father was

1 charged with DUI about thirty-five years ago.  
2 Also, I know quite a few in law enforcement  
3 people that I didn't just come out and name, but  
4 I'm in state revenue department, and I've had some  
5 dealings with Mr. Lingo.

6 MS. STINSON: What was your name again?

7 A JUROR: James French.

8 THE COURT: Thank you.

9 A JUROR: I've grown up with him. Plus, his  
10 sister, we had to drill his safety deposit box  
11 twice for him, and I was in the room with her for  
12 two hours each time, and we discussed one of his  
13 cases, but I don't know if it is this one or not  
14 or which case it was. So I know some of the  
15 details. But I can't even begin to tell you. I  
16 just -- and then, also, I have a subpoena to be  
17 testifying tomorrow in court. Not on this case,  
18 but in Judge Anderson's case.

19 THE COURT: You say you talked to the  
20 Defendant's sister?

21 A JUROR: Yes, sir.

22 THE COURT: About?

23 A JUROR: I'm not sure if it was this case,  
24 but she was talking about his case and him being  
25 in jail and things to that effect. So I don't

1 know if it was this case or a prior case.

2 THE COURT: Would that effect you in any  
3 way? Could you be fair and impartial?

4 A JUROR: Probably not. I just know too much  
5 about him to be honest.

6 THE COURT: Your name is what?

7 A JUROR: Pamela Keel.

8 THE COURT: Ms. Keel will be excused on this  
9 case.

10 You can go and come back at nine in the  
11 morning.

12 A JUROR: I'm supposed to be there at  
13 eight-thirty so I just go there first?

14 THE COURT: Just go to the jury room.

15 (At which time the following proceedings  
16 were held in open court:)

17 THE COURT: We've got the first and second  
18 rows. Anybody on the third row?

19 (Hand raised.)

20 (At which time the following proceedings  
21 were held in open court:)

22 A JUROR: Debra Blackstone's mother and I are  
23 very, very good friends.

24 THE COURT: Do you know anything about the  
25 facts in this case?

1 A JUROR: I don't know anything about.

2 THE COURT: Would the fact that you're good  
3 friends with her mother influence you in any way?

4 A JUROR: I'm not real sure.

5 MR. BINFORD: Good friends with whose's  
6 mother? Debra Blackstone?

7 A JUROR: Her mother and I are real good  
8 friends.

9 THE COURT: You don't know anything about the  
10 facts in the case?

11 A JUROR: Nothing at all.

12 THE COURT: But you can't -- I mean, could  
13 you listen to the evidence in this case and render  
14 a fair and impartial verdict based upon the  
15 evidence and not let your friendship with her  
16 interfere?

17 A JUROR: I believe so.

18 MS. STINSON: And what was your name again?

19 A JUROR: Mary Henderson.

20 THE COURT: Thank you, Ms. Henderson. You  
21 can have a seat.

22 (At which time the following proceedings  
23 were held in open court:)

24 THE COURT: Anybody else on the third row?

25 (No response.)

1 THE COURT: How about the fourth or the  
2 fifth?

3 (Hand raised.)

4 (At which time the following proceedings  
5 were held at the bench outside of the  
6 hearing of the jury venire:)

7 A JUROR: Let me ask you, a question that  
8 might pertain to anything going on that would keep  
9 your minds, well, tomorrow, but there's a bull  
10 sale that my wife is going to to try to buy a bull  
11 for us or whatever. And so spending that money  
12 and all that and making sure she gets the right  
13 bull, I don't think -- you know what I'm saying?  
14 I could be concentrating on it.

15 THE COURT: What is your name?

16 A JUROR: Jason Martin.

17 MR. BINFORD: Can I ask him one thing?

18 What time does that take place?

19 A JUROR: Eleven o'clock tomorrow morning.  
20 It starts at eleven. She's supposed to be going  
21 down there.

22 (At which time the following proceedings  
23 were held in open court:)

24 THE COURT: Anybody on this side?

25 (Hand raised.)



1 (At which time the following proceedings  
2 were held at the bench outside of the  
3 hearing of the jury venire:)

4 A JUROR: I was just thinking about what he  
5 said if you feel it in your gut that you just, you  
6 know, can't make a decision and send somebody to  
7 jail or whatever that you shouldn't serve. And I  
8 was thinking about that. And I was thinking  
9 about, you know, some other thing about you can  
10 really judge people, you know, especially if you  
11 weren't there to see it or whatever. And I'm just  
12 saying --

13 THE COURT: What is your name?

14 A JUROR: Johnny Johnson.

15 MS. STINSON: Johnny Johnson.

16 THE COURT: Okay. Thank you, Mr. Johnson.

17 (At which time the following proceedings  
18 were held in open court:)

19 THE COURT: Does that take care of  
20 everybody?

21 (Hand raised.)

22 (At which time the following proceedings  
23 were held at the bench outside of the  
24 hearing of the jury venire:)

25 THE COURT: Yes, sir?

1           A JUROR: I went to school with him. I know  
2 him. I've known some of the problems he's had in  
3 the past, you know, troubles. Whether it would --  
4 I don't really think it would have an effect on  
5 the way I feel. But I followed it more because I  
6 knew of him.

7           THE COURT: Are you telling me you know the  
8 Defendant?

9           A JUROR: From school. We went to school.  
10 And I've known some of the -- legal problems he's  
11 had in the past.

12          THE COURT: I need to know, could you listen  
13 to the evidence in this case and render a fair and  
14 impartial verdict based upon the evidence and the  
15 law given to you and put all of that aside?

16          A JUROR: Oh, probably so. I say yes.

17          THE COURT: Thank you.

18          MR. BINFORD: I challenge for cause, Judge,  
19 Mr. Johnson, number ninety-four, the gentleman who  
20 expressed some reserve about sitting in judgment  
21 on other people and sitting on the jury because of  
22 his beliefs about convicting people. I think he  
23 said something to the effect that you can't really  
24 judge people.

25          THE COURT: Do you have any question about

1 that -- about whether he --

2 MS. STINSON: Whether to keep him or not?

3 THE COURT: Uh-huh.

4 MS. STINSON: Well, I would --

5 THE COURT: I can bring him back and question  
6 him further.

7 MS. STINSON: Yeah.

8 (At which time the following proceedings  
9 were held in open court:)

10 THE COURT: Mr. Johnson, could you come  
11 back?

12 (At which time the following proceedings  
13 were held at the bench outside of the  
14 hearing of the jury venire:)

15 THE COURT: I need to know if you were on  
16 this jury could you listen to the evidence and  
17 render a fair and impartial verdict based upon the  
18 law and the evidence in this case, or would you  
19 just refuse to render a verdict of any kind?

20 A JUROR: You ask me to do it by the law?

21 THE COURT: Pardon me?

22 A JUROR: By the laws of the state, I guess I  
23 could do that.

24 THE COURT: You could do it?

25 A JUROR: I think I could do it.

1 THE COURT: You can have a seat.

2 I won't disqualify him. That might be  
3 some reason to strike, but not to disqualify.

4 MR. BINFORD: Those are all the challenges  
5 for cause. Mr. French, is he on? Is the Court  
6 going to take him off because he's the revenue and  
7 also he's had dealings with the Defendant?

8 MS. STINSON: I was that and another one.

9 THE COURT: You want him off?

10 MS. STINSON: Yeah. And then also Mary  
11 Henderson. She's the friend of Debra Blackstone's  
12 mother.

13 THE COURT: I questioned her, and she said  
14 that she could render a fair and impartial verdict  
15 without any interference -- without the  
16 relationship interfering.

17 So it's agreed that Mr. French goes  
18 off.

19 MR. BINFORD: Yes, sir. We won't object.

20 MS. STINSON: Yeah.

21 THE COURT: Okay. You can mark Mr. French  
22 off. And you've already marked Keel off.

23 (At which time the following proceedings  
24 were held in open court:)

25 THE COURT: Mr. French, you can go until nine

1 o'clock in the morning. Just come back to the  
2 jury room downstairs at nine o'clock in the  
3 morning. Thank you very much.

4 Ladies and gentlemen, we're right at the  
5 noon hour. So you may -- and let me explain to  
6 you why I'm doing what I'm doing. You've got to  
7 go to your lunch. These lawyers have to go to  
8 lunch, too. And in addition thereto, they have to  
9 strike the jury. And it will take thirty or forty  
10 minutes at a minimum for them to strike the jury  
11 down to the twelve who are going to serve. So  
12 we'll be at recess at this time until two  
13 o'clock. That will give you time -- you'll have  
14 an extended lunch period. But they -- they are  
15 going to have to go to lunch and do the striking.  
16 So if you will, go to your lunch at this time.  
17 And then just come back here at two o'clock this  
18 afternoon. Thank you very much.

19 (Jury venire not present.)

20 (At which time the attorneys and the  
21 clerk struck the jury.)

22 (Off the Record.)

23 (Jury venire present.)

24 THE COURT: If you will, please, ma'am, go  
25 ahead and call the jury around.

1 And, ladies and gentlemen of the jury,  
2 as she calls your name, if you will, come around  
3 and have a seat in the jury box here to my left.

4 THE CLERK: Gale Creamer. Wesley Crowley.  
5 Geneva Cull. Jason Davis. Willie Davis. Jimmie  
6 Harrison. Steven Henderson. Alfred King. Dewey  
7 Kirkland. Joel Kirkland. Jacquelyn Lester.  
8 Thomas Leverette. Melanie Marter. Lawrence  
9 Mathis.

10 THE COURT: Please, ma'am, if you'll place  
11 the jury under oath.

12 (At which time the jury was sworn by the  
13 clerk.)

14 THE COURT: Ladies and gentlemen, you're the  
15 trial jury in this case of the State of Alabama  
16 versus Ralph Wilson Lingo, who is charged with  
17 intimidating a witness. And during the course of  
18 this trial and until all the evidence is in and  
19 the case has been submitted to you for your  
20 verdict, you should not discuss the case among  
21 yourselves. You should not discuss it with anyone  
22 else. You should not allow anyone to discuss it  
23 with you. You should not allow anyone even to  
24 discuss it in your presence. And if anyone  
25 approaches you and attempts to discuss this case

1 with you or even to discuss it in your presence,  
2 you should let the Court know immediately.

3 Now, in addition thereto, you should  
4 not try to make any independent investigation of  
5 the facts of this case outside the courthouse or  
6 on your own at all. All of the evidence that  
7 you're allowed to hear will be that evidence that  
8 will come from the witness stand. And that's what  
9 you'll have to base your verdict on.

10 Now, are you attorneys ready to make  
11 your opening arguments?

12 MR. BINFORD: Yes, sir.

13 MS. STINSON: Yes, sir.

14 THE COURT: Let me just say to the other  
15 jurors, those not involved in this case, you may  
16 go until nine o'clock in the morning. Just if you  
17 will, come back to the jury room downstairs at  
18 nine in the morning.

19 (Jury venire excused.)

20 THE COURT: Mr. Binford, you may state your  
21 case to the jury.

22 (At which time opening statements were  
23 made by Mr. Binford.)

24 MS. STINSON: Objection, Your Honor.

25 THE DEFENDANT: Object.

1 THE COURT: Mr. Lingo, she's the lawyer.

2 MS. STINSON: Alicia Roberts never worked for  
3 Mr. Lingo.

4 THE COURT: He's telling what his evidence --  
5 what he intends for his evidence to show.

6 MS. STINSON: Okay.

7 THE COURT: You can argue to the contrary, if  
8 he doesn't show it --

9 MS. STINSON: I understand.

10 (At which time opening statements were  
11 continued by Mr. Binford.)

12 THE COURT: Ms. Stinson.

13 (At which time opening statements were  
14 made by Ms. Stinson.)

15 THE COURT: Who will the State's first  
16 witness be?

17 MR. BINFORD: Judge, we call Investigator  
18 Tony Luker.

19 TONY LUKER  
20 having first been duly sworn, was examined and  
21 testified as follows:

22 DIRECT EXAMINATION

23 BY MR. BINFORD:

24 Q State your name for the jury, please, sir.

25 A Tony Luker.



1 Q And are you an investigator with the Dothan  
2 Police Department?

3 A Yes, sir, I am.

4 Q And you have a rank within the Dothan Police  
5 Department, too; is that correct?

6 A That's correct. I'm a sergeant.

7 Q And how long have you been employed altogether  
8 with the police department here?

9 A With Dothan about twenty-one years.

10 Q And how long have you been employed in law  
11 enforcement altogether?

12 A Approximately twenty-three.

13 Q And how long have you been in investigations?

14 A Total time of my employment with Dothan has been  
15 about fifteen years in investigation.

16 Q That's not all consecutive, is it?

17 A No.

18 Q They rotate you in and out of investigations?

19 A Yes, sir.

20 Q And the investigations division, is that called  
21 CID, or criminal investigations division?

22 A It is.

23 Q Did you participate in working on a case involving  
24 Ralph Lingo wherein he is accused of intimidating  
25 a witness?

1 A Yes, sir, I am.

2 Q As a part of your investigation in that case, did  
3 you take a statement from a lady by the name of  
4 Debra Blackstone, or Debra Tice Blackstone?

5 A Yes, sir, I did.

6 Q And you interviewed her; is that correct?

7 A That's correct.

8 Q Do you know a young lady by the name of Alicia  
9 Roberts?

10 A Yes, sir.

11 Q And have also you in the course of your  
12 investigation talked to Ms. Roberts?

13 A I have.

14 Q When you talked to Ms. Blackstone, did you obtain  
15 any kind of documents from her?

16 A Actually, she had called whenever she received the  
17 documents and a patrol officer came out and took  
18 an initial report and took that document, and I  
19 got it from the evidence vault.

20 Q And that document is in your file at this time,  
21 correct?

22 A That's correct.

23 Q And the patrol officer would have put it in the  
24 evidence vault; is that right?

25 A Yes.

1 Q Since it was in the evidence vault, it would have  
2 been in the possession of the Dothan Police  
3 Department, and you can take it out or put it in  
4 as you see fit for court purposes, correct?

5 A Yes. Correct.

6 Q What was the nature of Ms. Blackstone's complaint  
7 when she met with you?

8 A Whenever I talked with her, she said that --  
9 actually, she had took a warrant out on Mr. Lingo  
10 for harassing communications -- a city warrant in  
11 the city court. After she did that, he was, of  
12 course, arrested. And then she received a letter  
13 that contained naked pictures of her. And in the  
14 letter it said that, you needed to drop the  
15 charges or these pictures were going to be  
16 plastered all over the City of Dothan and he was  
17 -- he would ruin her reputation or ruin her I  
18 think is what it said.

19 Q And was the warrant that was being referred to  
20 taken out on April 24th of 2003 in the Dothan  
21 Municipal Court?

22 A Yes, sir, it was.

23 Q The Dothan Municipal Court is, again, located here  
24 in Dothan, Houston County, Alabama, correct?

25 A Yes.

1 Q And it's not here in this building or in the Civic  
2 Center, but in the Kater Williams Building; is  
3 that correct?

4 A That's correct.

5 Q Now, what date did Ms. Blackstone make a complaint  
6 about this?

7 A On May 2nd. Whenever she was hand delivered this  
8 letter, she called and made a complaint.

9 Q And the warrant taken out at the city hall or the  
10 Kater Williams Justice Center and the Dothan  
11 Municipal Court was for harassing communications;  
12 is that correct?

13 A Yes, sir, that's correct.

14 Q And is harassing communications, basically it's a  
15 misdemeanor offense involving usually telephone  
16 harassment?

17 A That's correct.

18 Q In your experience as an officer, you know that,  
19 correct?

20 A Yes, sir.

21 Q Now, after you interviewed Ms. Blackstone and you  
22 got the interview with Ms. Alicia Roberts and you  
23 looked at this document, did you sign a warrant  
24 for the arrest of Mr. Lingo?

25 A Yes, sir, I did.

1 Q And was the charge that you signed the warrant for  
2 intimidating a witness?

3 A Yes, sir.

4 Q And may I see the document that was turned over to  
5 you through the vault by the patrol officer,  
6 please, sir?

7 A (Witness complied.)

8 Q And you're showing me what appears to be three  
9 pages; is that correct?

10 A That's correct.

11 (State's Exhibit No. 1 was marked for  
12 identification.)

13 Q I'll show you a set of three pages, which has been  
14 marked collectively as State's Exhibit No. 1.  
15 It's a white sheet with photographs copied and  
16 color on the front and then two other sheets with  
17 handwriting on them and these sheets appear to be  
18 yellow in color. Are these the documents that you  
19 received from the vault?

20 A Yes, sir.

21 Q Did you show those documents to Debra Tice  
22 Blackstone?

23 A Yes, sir.

24 Q And was she able to confirm that that is what she  
25 got from the man who delivered these to her?

1 A Yes, sir.

2 MR. BINFORD: Judge, that is all I have for  
3 Investigator Luker at this time.

4 THE COURT: Ms. Stinson.

5 CROSS EXAMINATION

6 BY MS. STINSON:

7 Q I have one question to ask you. I notice looking  
8 at this -- I've got a copy of the pictures and  
9 stuff. They're label -- the pictures is labeled  
10 one?

11 A Uh-huh.

12 Q And then there is a page that's labeled three?

13 A Yes.

14 Q And then there's one labeled four?

15 A Uh-huh.

16 Q Do you know who labeled those?

17 A Those were the way they were -- the first page  
18 there has one two on it. Which side?

19 Q Okay.

20 A One, two, three, and four. And that's the way  
21 they were labeled.

22 THE DEFENDANT: I ask the jury to step out  
23 for a moment, please.

24 THE COURT: I have to know why. It's not up  
25 to you -- you're not to be making decisions. It's

1 Ms. Stinson to make the decision.

2 Ms. Stinson, do you want to approach  
3 the bench?

4 MS. STINSON: I'll discuss it with you.

5 (At which time the following proceedings  
6 were held at the bench outside of the  
7 hearing of the jury:)

8 MS. STINSON: Your Honor, he is wanting me to  
9 question Mr. Luker about him arresting him in  
10 Henry County. And I tried to explain to him that  
11 Mr. Luker has been deputized in Henry County.

12 THE COURT: I don't know what it's got to do  
13 with this anyway.

14 (At which time the following proceedings  
15 were held in open court:)

16 THE COURT: That motion is denied.

17 Mr. Lingo, in the future, do all of your  
18 communicating through Ms. Stinson. Don't just  
19 stand up and be making motions on your own.

20 Is that all?

21 MS. STINSON: No. I've got one other thing.

22 Q You were the individual that spoke to Alicia  
23 Roberts, right?

24 A No, I did not speak to her in the initial. Deputy  
25 State Fire Marshal Todd Register actually took the

1 initial statement from her.

2 Q So you have not talked to her at all?

3 A I talked to her the other day.

4 Q In reference to this case?

5 A Yes.

6 Q And she told you basically that Ralph Lingo is the  
7 one that got her to write the letter?

8 A Yes, that's correct.

9 MS. STINSON: No further questions.

10 THE COURT: You may step down.

11 Who will the State's next witness be?

12 MR. BINFORD: Debra Blackstone.

13 THE DEFENDANT: Your Honor, at this time I  
14 would like to fire my attorney. I got legal  
15 documents right here. I was not prepared for this  
16 trial here. The Houston County Jail would not let  
17 me take a bath, would not let me shave. Have my  
18 legal time with my attorney. And the State had  
19 not had none of my witnesses here. And the way  
20 all this trial is coming about, I hope to have  
21 trial first on the search warrant. I lived in  
22 Henry County -- arrested in Henry County by the  
23 City of Dothan and brought back to City of Dothan  
24 without a Henry County deputy present. My home  
25 was searched with the City of Dothan with no Henry



1 County deputy present. I was held under gun  
2 point. Taken to the back of my yard. All my  
3 property was taken out of my house and what was  
4 took out of my house don't even match the property  
5 they got. And, Judge -- and on top of that, you  
6 signed off on all of this. And nothing matched.

7 THE COURT: What is the point that you're  
8 trying to make?

9 THE DEFENDANT: Judge, the point what I'm  
10 trying to make right here, every time I talk to my  
11 attorney about this, trying to get witnesses up  
12 and, you know, ain't got time, nobody talked to  
13 me. They bring me on into a trial. You know, I  
14 don't think I'm being did right here. I had asked  
15 my attorney probably over ten or twenty times and  
16 writing. The Court got it on document. I asked  
17 her to resign. Because I would not --

18 THE COURT: Ladies and gentlemen --

19 THE DEFENDANT: And also we asked you --

20 THE COURT: Hold on just a minute.

21 Ladies and gentlemen, if you will, go  
22 to the jury room and recall the instructions I've  
23 given you. I'll call for you shortly.

24 THE DEFENDANT: I'd like to enter documents  
25 into the Court.

1 (Jury not present.)

2 THE COURT: Let me see what you got.

3 This motion is denied.

4 If you would, tell the jury to come  
5 back. Bring the jury.

6 (Jury present.)

7 DEBRA BLACKSTONE

8 having first been duly sworn, was examined and  
9 testified as follows:

10 DIRECT EXAMINATION

11 BY MR. BINFORD:

12 Q Would you tell the jury your name, please, ma'am?

13 A Debra Blackstone.

14 Q And are you also known as Debra Tice Blackstone?

15 A Yes.

16 Q Now, you know Ralph Lingo; is that correct?

17 A Yes.

18 Q And is this Ralph Lingo next to his lawyer, Ms.  
19 Stinson, here in the courtroom?

20 A Yes.

21 Q Tell the jury how you know or are acquainted with  
22 Mr. Ralph Lingo.

23 A He's an ex-husband.

24 Q When were you and Ralph Lingo married?

25 A January of 1989.

1 Q And when were you-all divorced?

2 A '97 -- January of '97.

3 Q And were you separated for any length of time  
4 before you-all were divorced?

5 A Yes.

6 Q Now, since then -- since the divorce in '97 I  
7 believe you said, have you had any kind of contact  
8 with Ralph Lingo over the years?

9 A Yes.

10 Q I don't want to go into the whole domestic history  
11 between you and Mr. Lingo, but what I do want to  
12 ask and take you to last year, 2003, on April 24th  
13 of last year, 2003, did you sign a warrant against  
14 Mr. Ralph Lingo for harassing communications in  
15 the City of Dothan Municipal Court?

16 A Yes.

17 Q About one week later did you receive a letter from  
18 some unidentified delivery man?

19 A Yes.

20 Q Where were you when you received that letter?

21 A At my home.

22 Q Is that here in Dothan?

23 A Yes.

24 Q And is that here in Houston County, Alabama?

25 A Yes.

1 Q Now, I want to show you what we have marked as  
2 State's Exhibit No. 1. And first of all, I'm  
3 going to ask you, you know there are some  
4 photographs that were attached to this letter; is  
5 that correct?

6 A Yes.

7 Q And I know it's embarrassing, and I told you we  
8 would have to ask you about this in court. But  
9 are these nude photographs of you?

10 A Yes.

11 Q And who took those nude photographs of you,  
12 please, ma'am?

13 A Ralph Lingo.

14 Q Did anyone else have access to these photographs  
15 to your knowledge other than Ralph Lingo?

16 A No.

17 Q Was anyone else present when these photographs  
18 were made other than Ralph Lingo?

19 A No.

20 Q Do you know when the photographs were made?

21 A I'm not sure.

22 Q Now, I'll show you. We've marked this. And I'll  
23 ask you to look at it. This is State's Exhibit  
24 No. 1 which consisted of four copies of photos.  
25 Do you recognize that?

1 A Yes.

2 Q And then it says four out of twenty pictures there  
3 on that page; is that correct?

4 A Yes.

5 Q I'm showing you two other pages which are part of  
6 that exhibit. One has up at the top left number  
7 three and then it goes down a page of handwriting  
8 and then the other has number four, which is  
9 another page of handwriting; is that right?

10 A That's correct.

11 Q And you received this at your home; is that  
12 correct?

13 A Yes.

14 Q Now, you had the chance to look at this and review  
15 it prior to today, correct?

16 A Yes.

17 Q I'm going to just ask you briefly to look at these  
18 again and tell us if this is in fact the exact  
19 document that was received by you one week after  
20 you had taken out the harassing communications  
21 warrant on Mr. Ralph Lingo?

22 A Yes, it is.

23 Q And did you alter it or change it or tamper with  
24 it in any manner before you turned it over to the  
25 police?

1 A No, sir.

2 Q And let me ask you about that. How did you feel  
3 when you got that letter with those photographs  
4 with that letter saying what it said?

5 A I was just -- I was overwhelmed. I was just -- I  
6 was scared. I was terrified. I mean, I didn't  
7 know what he was going to do.

8 Q Did it make you afraid to go to court?

9 A Yes.

10 Q Did you in fact later go to court, though?

11 A Yes.

12 Q And also you had taken out a protection from abuse  
13 order on Ralph Lingo when you got the arrest  
14 warrant for harassing communications; is that  
15 correct?

16 A Yes.

17 Q Was Mr. Lingo ultimately convicted of that charge  
18 that you had taken out on him?

19 A Yes, sir.

20 Q And without going into all of the details, was  
21 that harassing communications charge a harassing  
22 telephone call or was it an in-person-type of  
23 harassing communication?

24 A It was a telephone call.

25 Q And had that telephone call been received by you

1 at your home?

2 A Yes.

3 Q Have you ever received any other harassing phone  
4 calls from Mr. Ralph Lingo?

5 A I've received some phone calls that nobody would  
6 say anything. They would just be beating on the  
7 telephone.

8 Q And this document in fact is not signed by anyone,  
9 is it?

10 A No, it's not.

11 Q Nobody I guess wanted to put their name on it  
12 before it was sent to you, correct?

13 A Right.

14 Q And can you describe the person who delivered the  
15 letter to you?

16 A He was a black male. He was kind of short.  
17 Probably in his thirties -- middle thirties.  
18 Somewhere around there.

19 Q Was it open like we have it open in court today,  
20 or was it in an envelope?

21 A It was in an envelope.

22 Q Where were you when you received it?

23 A Standing at my front door.

24 Q And was it daylight or dark when you received it?

25 A Daylight.

1 Q Morning or afternoon?

2 A I'm not -- I don't really remember the time.

3 Q Now, you got this and you've testified it upset  
4 you and worried and concerned about it, fair to  
5 say?

6 A Right.

7 Q Now, when you got the letter, did you go  
8 immediately and take it to the police, or did you  
9 keep it and hold it awhile to think about it?

10 A I did not hold it. I immediately called the  
11 police.

12 Q And they came out -- a patrol officer came to your  
13 house?

14 A Yes, sir.

15 Q What did you do with that letter when that patrol  
16 officer came to your house?

17 A I gave it to her.

18 Q And did you see it again before trial? You saw it  
19 last week I think when I showed it to you?

20 A Right.

21 Q And Investigator Luker showed it to you?

22 A Right.

23 Q But other than that, since then you have not seen  
24 it, correct?

25 A Right.



1 Q But today it is in the same condition it was when  
2 you got it at your house a week after signing the  
3 warrant against Ralph Lingo; is that correct?

4 A Yes.

5 MR. BINFORD: Judge, we offer State's Exhibit  
6 No. 1 at this time and offer to publish it to the  
7 jury.

8 MS. STINSON: No objection.

9 THE COURT: Let it be admitted.

10 (State's Exhibit No. 1 was admitted into  
11 evidence.)

12 MR. BINFORD: Judge, that is all I have at  
13 this time for Ms. Blackstone.

14 THE COURT: Ms. Stinson.

15 CROSS EXAMINATION

16 BY MS. STINSON:

17 Q All right. You had stated -- or testified that  
18 you-all had divorced in '97 -- January of '97?

19 A Yes.

20 Q But you-all had had I guess a speaking  
21 relationship on and off?

22 A Yes.

23 Q Up until now?

24 A Right.

25 Q Did you-all have any other kind of relationship as

1 far as a close relationship -- you and Mr. Lingo?

2 A You're talking --

3 Q Well, more like a husband and wife relationship or  
4 a friendship? You know, what kind of relationship  
5 did you have?

6 A I didn't classify it as a husband/wife  
7 relationship, no. You know, I thought a lot of  
8 him. But that was about it.

9 Q So in essence, then, it was nothing for you to  
10 call him on the phone, see how he was doing, stuff  
11 like that?

12 A Right.

13 Q Now, you-all were married in '89, right?

14 A I believe that's the year.

15 Q Estimate about how long you've known Mr. Lingo in  
16 total.

17 A I really don't know. I knew him probably whenever  
18 I was -- was it fourteen -- fifteen.

19 Q So you've known him for quite some time now?

20 A Yeah.

21 Q Can he read and write?

22 A No.

23 Q He can't read and write at all?

24 A No.

25 Q Or very little?

1 A Well, he can read some small words.

2 Q So it would be easy for somebody to take advantage  
3 of him or to embellish something --

4 A Not --

5 Q -- in writing? If he can't read and write, he's  
6 not going to know?

7 A Well, I don't know how to answer that because, I  
8 mean, he would make you read it over to him time  
9 and time again. If he didn't trust you, he would  
10 take it to somebody else that he did trust.

11 Q So he would have to get somebody that he really  
12 trusted to write the letter?

13 A Right.

14 Q Now, during the time of this occurrence as far as  
15 harassing communications, April 24, 2003, is when  
16 you did a warrant on him. Prior to that and  
17 around that time he used to send you roses, didn't  
18 he?

19 A Yeah.

20 Q He would put a card in it?

21 A Yeah.

22 Q And it would say, I love you, you know who this  
23 is, I love you?

24 A Yes.

25 Q I love you, I think about you every day, you're

1 still in my heart?

2 A I don't remember what the cards all read.

3 Q And then, I love you and always will, please call?

4 A I received that one after the warrant was signed.

5 Q Has Mr. Lingo ever beat you?

6 A Yes.

7 Q He has beat you?

8 A (Witness nodded.)

9 Q And when was this?

10 A It was not long after we had gotten married.

11 Q Did you put out a warrant for his arrest?

12 A No.

13 Q Did you go to the hospital?

14 A Yes.

15 Q You did?

16 A Yes.

17 Q Now, the letter that you received along with the  
18 pictures, there's some statements in there that is  
19 allegedly what Mr. Lingo had stated to the effect  
20 of, I'm very depressed, I have cried a million  
21 tears over you. Do you remember reading that?

22 A Yes.

23 Q He was also stating -- or the letter also states  
24 he was trying to fight to keep you, to keep you I  
25 guess in the standard that he felt that you needed

1 to be in; is that right?

2 A Not in my terminology it wasn't.

3 Q Now, let's go back to the harassing communications  
4 charge that was in the City of Dothan. You had  
5 testified earlier that it was from a telephone  
6 conversation?

7 A Yes.

8 Q And I guess Mr. Lingo had been trying to contact  
9 you?

10 A Yes.

11 Q Throughout the day or week?

12 A I had told him to stop calling me.

13 Q Okay. And so I guess when he called you, you told  
14 him to stop calling you and then he called right  
15 back?

16 A Right.

17 Q And then that's when you decided that you needed  
18 to do a harassing communications?

19 A Yes.

20 Q Okay. I know you had stated that he had beat you  
21 at the beginning of you-all's marriage. Has he  
22 made any kind of threats or anything to you as far  
23 as beating you recently?

24 A You talking about threats?

25 Q Any kind of -- yeah, threats.

1 A He has threatened to burn my house down. He has  
2 tried to hire somebody to kill me. He has made  
3 the comment to me that the next person that puts  
4 him away will die.

5 Q Have you ever made any kind of threats towards  
6 him?

7 A No.

8 Q Never?

9 A (Witness nodded.)

10 Q You-all have never argued back and forth?

11 A We've argued, yes.

12 MS. STINSON: No further questions.

13 THE COURT: Anything else on direct?

14 MR. BINFORD: No, sir.

15 THE COURT: You may step down.

16 MR. BINFORD: We ask that she be excused,  
17 also, Judge, if she needs to be.

18 THE COURT: She's excused.

19 Who will your next witness be?

20 MR. BINFORD: Alicia Rogers.

21 ALICIA ROBERTS

22 having first been duly sworn, was examined and  
23 testified as follows:

24 DIRECT EXAMINATION

25 BY MR. BINFORD:

1 Q Tell us your name, please, ma'am.

2 A Alicia Roberts.

3 Q And, Ms. Roberts, you live in Headland, I believe,  
4 in Henry County?

5 A Yes, sir.

6 Q Newville or Headland?

7 A Headland.

8 Q Now, you know the Defendant, Ralph Lingo, in this  
9 case; is that right?

10 A Yes, sir.

11 Q Tell the jury how you know Ralph Lingo.

12 A I worked for him.

13 Q And how did you work for him?

14 A I worked filling out paperwork. I cleaned his  
15 house and stuff like that.

16 Q Cleaned his house?

17 A (Witness nodded.)

18 Q And where was that where you cleaned his house  
19 and stuff like that?

20 A In the trailer that he lived in in Newville.

21 Q In Newville. And this is Ralph Lingo in court to  
22 your right and my left, correct?

23 A Yes, sir.

24 Q Now, I want to show you what we have marked as  
25 State's Exhibit No. 1. And it's really three

1 pages. And I think it was in this order. It's  
2 some writing, some photographs, another page of  
3 writing, and another page of writing. Do you  
4 recognize what is State's Exhibit No. 1?

5 A Yes, sir.

6 Q And would you tell the jury how you recognize  
7 that, please, ma'am?

8 A Because I wrote it.

9 Q And where did you write that?

10 A At his home.

11 Q Are these your words?

12 A Those are his words.

13 Q How do you know that these are his words?

14 A He told me -- he told me what to write because he  
15 couldn't read or write.

16 Q Did you write down what he asked you to write?

17 A Yes, sir.

18 Q And at this time you were his employee; is that  
19 right?

20 A Yes, sir.

21 Q Is there anything in there that Alicia Roberts put  
22 in there --

23 A No, sir.

24 Q -- because Alicia Roberts wanted to add something?

25 A No, sir.



1 Q Do you have any axe to grind against Debra  
2 Blackstone?

3 A No, sir. There was nothing, really. I mean, me  
4 and her -- she got into it on the phone with me  
5 one time, but I really don't know her. I don't  
6 have nothing against her.

7 Q Did you try to add something in there that Ralph  
8 didn't tell you to add?

9 A No, sir. I threatened to put a warrant out on her  
10 because she was -- she was -- she had called me  
11 names and stuff over the phone. That's it.

12 Q Over the telephone?

13 A Over the phone.

14 Q Now, there are some pictures that are copied and  
15 attached to that letter, correct?

16 A Yes, sir.

17 Q Did you see those pictures when you were writing  
18 out the letter for Ralph Lingo?

19 A Yes, sir.

20 Q And --

21 A I helped him copy them.

22 Q Did he give you those pictures?

23 A He handed them to me to try to copy them on the  
24 scanner.

25 Q And that was done where also? In the same

1 building?

2 A In the same home in the trailer.

3 Q He had a copier and scanner in his home?

4 A He did have.

5 Q You're not coming in here bragging about doing  
6 this?

7 A No, sir.

8 Q And why did you do it? Can I just point blank ask  
9 you why would you do that for somebody?

10 A I really don't know why. I mean, he asked me to,  
11 and I done it, and I thought it was just a marital  
12 thing. I didn't know what it was about really.

13 Q You wish you hadn't done it?

14 A Yes, sir.

15 Q You don't still work for Mr. Ralph Lingo, do you?

16 A No, sir.

17 MR. BINFORD: Judge, that's all I have for  
18 Ms. Roberts at this time.

19 THE COURT: Ms. Stinson.

20 MS. STINSON: Okay, Your Honor. Just a  
21 moment.

22 CROSS EXAMINATION

23 BY MS. STINSON:

24 Q Ms. Roberts, you stated that you worked for Mr.  
25 Lingo I guess cleaning house?

1 A Uh-huh.

2 Q What kind of paperwork did you do?

3 A He had me to fill out some warrants -- not  
4 warrants, but filing stuff with the Court --  
5 courthouse to sue people with. I took down the  
6 names of phone numbers for the folks who had  
7 called and left a message on the phone and stuff  
8 like that.

9 Q When you -- you testified that Mr. Lingo asked you  
10 to write this letter?

11 A Yes, ma'am.

12 Q During the time that you were writing this letter,  
13 did you -- how exactly did it occur? I mean, did  
14 he just say write the letter and that's it?

15 A He asked me -- he told me -- first he asked me  
16 did I know how to run a copier scanner. I told  
17 him yes. And then he -- and then he's, like, I  
18 want you to copy this. Well, I copied it. And  
19 then he wanted me to write the letter.

20 Q Did he tell you what do to write or did you --

21 A He told me what to write.

22 Q Except for about the warrants?

23 A Ma'am?

24 Q You had testified earlier that you had written  
25 something about warrants?

1 A No. No. No. No, I threatened to put a warrant  
2 on her because she called me names over the phone,  
3 accused me of things that I wasn't doing. I  
4 actually spoke to Warrick Ram about it actually.

5 Q And when did this occur?

6 A Around the same time. When I first started. The  
7 first day I was there.

8 Q Mr. Black -- or Ms. Blackstone was cussing you out  
9 because supposedly she was accusing you of being  
10 with Mr. Lingo, wasn't she?

11 A Yes, ma'am.

12 Q And you-all supposedly had a relationship?

13 A No. I didn't have one with him, but she accused  
14 me of it. She -- she actually called me a name on  
15 the phone.

16 Q So -- now, you know that Mr. Lingo can't read and  
17 write, right?

18 A Yes, ma'am.

19 Q Did you read back the letter to him?

20 A Yes, ma'am.

21 Q And he -- okay --

22 A He okayed it. And he also asked me to carry it to  
23 her. And I told him no.

24 Q Why did you write the letter?

25 A I really don't know. I mean, I just did it

1           because he asked me to. I didn't want to lose my  
2           job because I needed the money to pay my car  
3           payment.

4           Q    How long were you supposedly working for Mr. Lingo?

5           A    A few weeks. About a month or something like  
6           that.

7           Q    Okay.

8           A    I don't really know the time -- I mean, how long.  
9           Because I wasn't there, like, every day, either.

10          Q    How much did you work?

11          A    I worked from, like, eight to, like, three in the  
12          afternoon. Something like that.

13          Q    Monday through Friday?

14          A    Yeah. Unless he needed somebody to ride with him  
15          to carry the portable buildings because he didn't  
16          know exactly where it was. That's how I started  
17          working with him was one time when he couldn't  
18          find Baker Hill and he had me and Joe -- Joe Helms  
19          ride with him to carry the portable building  
20          there.

21          Q    Okay.

22          A    And working with him and so I thought everything  
23          was okay.

24          Q    You made a statement to Todd Register about this  
25          letter, didn't you?

1 A Who is Todd Register?

2 Q He's the gentleman that interviewed you.

3 A Yes, ma'am.

4 Q Did you approach the police about this or did --

5 A They approached me.

6 Q -- they approach you?

7 A They approached me.

8 Q Okay.

9 A The fire marshal approached me.

10 MS. STINSON: No further questions.

11 THE COURT: Anything further?

12 MR. BINFORD: No, sir, not of this witness.

13 We would ask that she be excused also.

14 THE COURT: You may step down, and you're  
15 excused. You may go.

16 (State's Exhibits No. 2 and 3 were  
17 marked for identification.)

18 ED SASSER

19 having first been duly sworn, was examined and  
20 testified as follows:

21 DIRECT EXAMINATION

22 BY MR. BINFORD:

23 Q Would you tell the jury your name, please, sir?

24 A My name is Ed Sasser.

25 Q Mr. Sasser, where do you work?

1       A       I'm an investigator with the Alabama Department of  
2               Corrections.

3       Q       And as an investigator with the Department of  
4               Corrections, what do you do -- what day in and day  
5               out do you do?

6       A       We investigate any crime that's committed within  
7               the institutions or any personnel that violates  
8               one of our laws or anything else that the  
9               commissioner may want us to investigate.

10      Q       And how long have you been employed as an  
11              investigator with the Department of Corrections?

12      A       Right at twenty years.

13      Q       Now, did you have an occasion to investigate a  
14              complaint in one of your institutions concerning  
15              an inmate by the name of Ralph Lingo?

16      A       Yes, sir.

17      Q       And where was Mr. Lingo at that time?

18      A       He was at Bullock County Correctional Facility.

19      Q       And what was the nature of the complaint that you  
20              received?

21              MS. STINSON: Objection.

22              THE COURT: I'm sorry, what was the question?

23              MR. BINFORD: What was the nature of the  
24              complaint that he received.

25              THE COURT: When he went to talk to --

1 MR. BINFORD: Mr. Lingo.

2 THE COURT: -- Mr. Lingo at Bullock County?

3 MR. BINFORD: Yes, sir.

4 THE COURT: I'm going to sustain the  
5 objection as to anything -- to some other  
6 investigation that might have been going on,  
7 anything to do with that.

8 Q To by-pass that, let me ask you this. You got a  
9 complaint concerning inmate Ralph Lingo, correct?

10 A Yes, sir.

11 Q And you went to Bullock County where he was to  
12 talk to him; is that correct?

13 A Yes, sir.

14 Q And were you there working on behalf of the Dothan  
15 Police Department?

16 A No, sir.

17 Q And did anyone with the, say, D.A.'s office or the  
18 City of Dothan Police Department investigations  
19 call you at your office and ask you to go to  
20 Bullock County to interview Mr. Lingo?

21 A No, sir.

22 Q And your office is not in Bullock County or  
23 Houston County, but your office is in Montgomery  
24 County; is that correct?

25 A Montgomery.



1 Q And after -- let me tell you -- ask you this,  
2 rather. Where did you get a complaint from and  
3 where did the complaint originate?

4 A From the warden at Bullock County Correctional  
5 Facility.

6 Q Your job, of course, as you said is to investigate  
7 things like that?

8 A Yes, sir.

9 Q You went to Bullock County; is that correct?

10 A Yes, sir.

11 Q And there you met with an inmate by the name of  
12 Ralph Lingo; is that correct?

13 A I met with Ralph Lingo, yes, sir.

14 Q Do you recognize Ralph Lingo in the courtroom  
15 today?

16 A Yes, sir.

17 Q Is that Ralph Lingo with his attorney, Ms. Stinson?

18 A That's Ralph Lingo.

19 Q At that time did you advise Mr. Lingo of his  
20 Miranda rights?

21 A I did.

22 Q And I'll show you what we've marked as State's  
23 Exhibit No. 2 and I'll ask if you recognize that.

24 A Yes, sir.

25 Q And what is that, please, sir?

1       A     This is a -- one of our Miranda rights forms that  
2             I had filled out, advised him of his rights, and  
3             he signed it on the bottom.

4       Q     Now, before he signed this waiver of rights form  
5             marked as State's Exhibit No. 2, did you or anyone  
6             in your presence offer him any kind of reward or  
7             inducement in order to get him to talk to you?

8       A     No, sir.

9       Q     Did you or anyone in your presence before he  
10            signed Ralph Lingo at the bottom of this statement  
11            threaten him or coerce him in any manner in order  
12            to obtain any type of a statement from him?

13      A     No, sir.

14      Q     Did he sign this rights form -- or waiver of  
15            rights on the rights form in your presence?

16      A     Yes, sir.

17      Q     In Bullock County, and did he do so voluntarily?

18      A     Yes, sir.

19            MR. BINFORD: Judge, we would offer No. 2 at  
20            this time.

21            THE COURT: Is that the Miranda form?

22            MR. BINFORD: Yes, sir.

23            THE COURT: Let that be admitted.

24                    (State's Exhibit No. 2 was admitted into  
25                    evidence.)

1 Q I'll also show you what we have marked as State's  
2 Exhibit No. 3. It's a two-page transcript -- or  
3 appears to be a two-page transcript; is that  
4 correct?

5 A Yes, sir.

6 Q And do you recognize that?

7 A I do.

8 Q Is that a transcript of the conversation that you  
9 had with Ralph Lingo in Bullock County?

10 A Yes, sir.

11 Q And was that taken last month?

12 A It was taken 10-13-04.

13 Q And, again, this is a true and correct copy of the  
14 transcript; is that correct?

15 A Yes, sir.

16 MR. BINFORD: Judge, we would offer State's  
17 Exhibit No. 3 at this time.

18 MS. STINSON: Your Honor, I would like to  
19 object at this time.

20 THE COURT: Let me see what it says.

21 I'm going to sustain the objection.

22 MR. BINFORD: Judge, could we ask -- could we  
23 take something up out of the presence of the jury?

24 THE COURT: Ladies and gentlemen, I'm going  
25 to ask you if you will, please, to go to the jury

1 room. Just recall the instructions I've given  
2 you, and we'll call for you shortly.

3 (Jury not present.)

4 THE COURT: Let the Record show that this is  
5 out of the presence and hearing of the trial  
6 jury.

7 MR. BINFORD: Judge, I want to add, is there  
8 a part of that the Court objects to? That's what  
9 I was trying to figure out if we would excise  
10 parts of it to make it admissible to the Court?

11 THE COURT: Well, there's a mention of other  
12 offenses in here. I had indicated early on that,  
13 you know, I wasn't going to allow anything like  
14 that. And the other thing --

15 MS. STINSON: May I speak, Your Honor?

16 MR. BINFORD: Can I hear what you have to  
17 say, Judge, before? I would like to hear what you  
18 have to say. I haven't heard an objection from  
19 the Defense or the nature of the objection other  
20 than just objection. So I don't --

21 MS. STINSON: Then I'll be glad to state  
22 that.

23 MR. BINFORD: I would rather hear what the  
24 Court --

25 THE COURT: Go ahead.

1 MS. STINSON: I object to, of course, the  
2 statement about the supposed other crime that's  
3 occurring -- the solicitation of murder where the  
4 -- Debra Blackstone supposedly they are trying to  
5 -- well, excuse me, I'm sorry, Mr. Lingo is  
6 supposedly soliciting somebody to burn her house  
7 down while she's in it. I object completely to  
8 that. I don't think it's relevant to this case  
9 right here. And there's nothing there. They have  
10 got an individual -- an inmate in Bullock County  
11 by the name of Morris Bowman that has a long  
12 record. In fact, he's serving right now life with  
13 the possibility of parole, and I -- yeah, two  
14 robbery charges. So to me --

15 MR. BINFORD: What does that have to do with  
16 this when we're not even calling him as a witness,  
17 Judge?

18 THE COURT: Yeah, I don't understand that.

19 MS. STINSON: Also, the other thing I have a  
20 problem with is that on 10-13-2004 I was his  
21 counsel. And I was not approached about this at  
22 all.

23 MR. BINFORD: Judge, I have a response. I  
24 would like to be heard on that also. And my  
25 response --

1 THE COURT: When she gets through, I will let  
2 you.

3 MS. STINSON: I don't have anything else,  
4 Your Honor.

5 MR. BINFORD: That is not a ground to legally  
6 suppress that statement, though, Judge, the fact  
7 that he was represented by counsel. He signed a  
8 waiver saying he didn't want to talk to a lawyer.  
9 This gentleman didn't go there to investigate him  
10 on some pending case. He didn't go as an agent of  
11 the D.A.'s office. He didn't go as an agent of  
12 the Dothan Police Department. He was there  
13 investigating a threat. And that is how they  
14 started talking about this case. But that was not  
15 his purpose. But the things that would justify  
16 suppressing the statement on the ground that he  
17 had a lawyer, did they violate his Miranda  
18 rights? No. We have a State's Exhibit No. 2 in  
19 evidence where he was advised of his rights and he  
20 waived his rights. Was the product -- the  
21 statement a product of force or duress or a  
22 promise of a reward or an inducement? No. This  
23 gentleman has testified that none of those things  
24 occurred.

25 The only other thing, Judge, that would

1           justify suppressing this statement as I understand  
2           under the law would be a situation like this. And  
3           that is if a defendant is arrested, locked up, and  
4           the police department -- or the law enforcement  
5           agency engages in just outrageous conduct which  
6           rises to the level of a due process violation. An  
7           example would be a case -- and I got it over lunch  
8           on Lexis -- where a man was arrested, charged with  
9           murder, I believe, taken to the police department,  
10          his wife finds out where he is finally. The  
11          police won't even tell his wife where he is.  
12          About twenty times she asks the jailer to speak to  
13          her husband. She calls one attorney, and the  
14          attorney tries to get in touch with her husband at  
15          the jail. He's going to represent this man. No,  
16          they won't even confirm that he's in the jail.  
17          Then she gets another lawyer, Mr. Storm. This Mr.  
18          Storm tries and tries and tries to get to this  
19          defendant in the jail. But the police never even  
20          advise the defendant that he has lawyers out there  
21          knocking on the door trying to get in touch with  
22          him. Rather, they secrete him and seclude him  
23          away from the people that are there trying to help  
24          him. And in that case, the Alabama Supreme Court  
25          said that does not rise to the level of a due

1 process violation such as would justify a court in  
2 suppressing the statement. Justice Maddox  
3 dissented. It was a dissent. But Justice Maddox  
4 said in this case I think this might have. But  
5 that case they discuss that. But this was not  
6 that situation, Judge. Nobody was knocking on the  
7 door of the Bullock County Penitentiary trying to  
8 get in touch with Mr. Lingo. No one was trying to  
9 hide him from his lawyer. There's no outrageous  
10 or egregious conduct on the part of Mr. Sasser who  
11 was just doing his job investigating a complaint  
12 within the prison system. And that's why I don't  
13 think it ought to be suppressed on that ground. I  
14 just don't think that's the law. I would like to  
15 say on the second page of that, Judge, they  
16 exclusively except for maybe the top answer by Mr.  
17 Ralph Lingo, they exclusively talk -- you know,  
18 they talk about this case. And I believe that  
19 should be admitted. If we could extract that from  
20 the statement and offer that because he talks  
21 about that. He talks about, you know, you  
22 threaten Debra by sending a person to her house --

23 THE COURT: Is this the whole statement? Is  
24 that everything?

25 MR. SASSER: Yes, sir, Your Honor. When he



1           said he wanted to stop making a statement, I  
2           stopped it at that point. The last line down  
3           there on the second page.

4           THE COURT: And, let's see. Do I understand  
5           that -- of course, I didn't allow the complaint --  
6           the substance of the complaint to go to the jury.  
7           But what were you there to discuss with him?

8           MR. SASSER: The Warden had called me and  
9           told me that an inmate had come to him and said  
10          that Mr. Lingo had come to the inmate wanting him  
11          to look at some legal papers to see if there was  
12          anything wrong with a search warrant. And he  
13          looked at the search warrant and he said Mr. Lingo  
14          told him it really didn't matter anyway because he  
15          had someone that was going to take care of Debra.  
16          And the inmate, I took a statement from him, and  
17          he told me that Mr. Lingo told him that he was  
18          going to get this person to burn Debra's house  
19          down with her in it.

20          THE COURT: And that's what you were there to  
21          talk to him?

22          MR. SASSER: That was what I was -- that was  
23          what I was there for. And I didn't know what I  
24          was there when I come down there.

25          THE COURT: So you went to him --

1 THE DEFENDANT: I got the record at the  
2 county jail.

3 THE COURT: Have a seat, please.

4 THE DEFENDANT: I'm sorry.

5 THE COURT: And I believe Debra was also a  
6 witness against you in some -- something -- some  
7 kind of tapes? What was --

8 MR. SASSER: I think that was some kind of  
9 case is what that --

10 THE COURT: In some kind of case?

11 MR. SASSER: I didn't know where the case  
12 that I was talking to him about had been already  
13 tried or what.

14 THE COURT: Okay. And then he said, Debra is  
15 more -- or he said, Debra is more or less like,  
16 uh, yeah, a witness, uh, like, more or less like  
17 she was dating me. And then you said, okay, but  
18 she is a witness. And he said, yes, sir. I mean,  
19 she's a witness -- that's all I know. She was --  
20 no, just dating me at the time. And you said,  
21 okay, while you was at the Houston County Jail did  
22 you talk to any other inmates at the Houston  
23 County Jail about taking care of Debra by burning  
24 her house down with her in it. Now, that's the  
25 part right there.

1 MR. BINFORD: Judge, can I say this, too, on  
2 that point? I know the Court said that you don't  
3 want to get into other allegations. But they  
4 elicited that from Debra Blackstone herself on the  
5 stand by testimony that he had threatened to burn  
6 her house down.

7 THE COURT: Make a statement for anybody not  
8 no one hurt Debra Blackstone or anybody else.

9 MS. STINSON: Another thing -- can I ask him  
10 a question? Is that all right, Your Honor?

11 THE COURT: Yeah. Just a minute.

12 MS. STINSON: Okay.

13 THE COURT: You want to say something else?

14 MS. STINSON: Are you aware Mr. Lingo can't  
15 read and write?

16 MR. SASSER: He told me he couldn't read.

17 MS. STINSON: Did you tell him what his  
18 rights were then?

19 MR. SASSER: I read his rights to him.

20 MS. STINSON: And then after that he signed  
21 it?

22 MR. SASSER: He signed it.

23 MS. STINSON: Were you aware that he had  
24 counsel?

25 THE WITNESS: The only time I was aware he

1 had counsel was when he said that he wanted  
2 something to send to his lawyer -- that other  
3 inmate said he wanted something to send to his  
4 attorney. And he mentioned nothing at all to me  
5 about having an attorney.

6 MR. BINFORD: Judge, we would be -- I mean,  
7 my contentment is not your concern, but I would  
8 be content with peel off the first page and limit  
9 it to what he said about this case.

10 THE COURT: I'm going to allow it.

11 MR. BINFORD: They opened the door.

12 THE COURT: I'm going to change my ruling.  
13 I'm going to allow it in.

14 (State's Exhibit No. 3 was admitted into  
15 evidence.)

16 MS. STINSON: Just the part of the --

17 THE COURT: No. The whole thing. Because  
18 the jury has already heard the thing about burning  
19 -- threatening to burn her and her house down.  
20 There's nothing new there.

21 THE COURT: You can bring the jury.

22 (Jury present.)

23 THE COURT: Mr. Binford, you can go ahead.

24 Q Now, we were showing you State's Exhibit No. 3,  
25 which is a transcribed copy of the statement that

1 Mr. Lingo gave to you and that appears to be a  
2 transcribed copy of it; is that correct?

3 A Yes, sir.

4 Q Now, in this statement you talk about the initial  
5 complaint, correct?

6 A Right.

7 Q And in the statement the complaint you were  
8 investigating was a complaint of Mr. Lingo  
9 allegedly threatening to burn down Debra's trailer  
10 with her in it; is that correct?

11 A Yes, sir.

12 Q In the statement Mr. Lingo denies making any  
13 statements like that of any nature; is that  
14 correct?

15 A Yes, sir.

16 Q On the next page of your transcript, do you begin  
17 to ask Mr. Ralph Lingo about the charge here --  
18 the charge in fact that is in trial right now  
19 before this jury, the intimidating a witness  
20 charge?

21 A Yes, sir.

22 Q Now, do you ask Mr. Lingo, have you threatened  
23 Debra before by sending a person to her house with  
24 a naked picture of her? Did you ask him that?

25 A Yes, sir.

1 Q And what did he say?

2 A He said that the person that had it didn't know  
3 what was in it. And I asked him if Debra knew  
4 that -- what it was, that it was naked picture.  
5 And he said Debra did. And I said, there was a  
6 naked picture in there. And he said, that's  
7 true. And I said, well, why did you send the  
8 picture to Debra. And then he said -- he  
9 indicated that he was trying to say that he had a  
10 case pending, and I told him that he had been  
11 advised of his rights and could stop answering at  
12 any time. And he said, we'll stop now.

13 Q Now, some places on the tape it says inaudible on  
14 this transcript?

15 A Yes, sir. We were in a brick -- a block building,  
16 and it's awful hard to take a taped statement in a  
17 block building.

18 Q Is there anything in here where the inaudibles  
19 appear where he said something contrary to what  
20 you testified about?

21 A No, sir.

22 MR. BINFORD: Judge, we would offer No. 3  
23 again, the statement.

24 THE COURT: Let it be admitted over their  
25 opposition.

1 MR. BINFORD: That's all we have of Mr.  
2 Sasser at this time.

3 THE COURT: Ms. Stinson.

4 CROSS EXAMINATION

5 BY MS. STINSON:

6 Q Now, you went to see Mr. Lingo, correct?

7 A Yes, ma'am.

8 Q Doing an investigation?

9 A Right.

10 Q And you -- okay. Now, when you went to go and  
11 investigate -- or speak to Mr. Lingo, you were  
12 going to speak to him about a fight in the Houston  
13 County Jail; is that right?

14 A No. You're talking -- there's two different  
15 occasions. Approximately two -- three weeks prior  
16 on the first day that Inmate Lingo came into  
17 Bullock County Correctional Facility, I was  
18 there. The warden said, we have an inmate who is  
19 claiming that he has been beaten by the Houston  
20 County Sheriff's Department. I said, well, bring  
21 him up here and let me look at him and take  
22 pictures so he can't blame this on us. So they  
23 brought him up here to where I was at. I took  
24 pictures of him. And I took a statement. He said  
25 that he was beaten by jail personnel here at

1 Houston County. I took that statement. I also  
2 took pictures. He said that he had a broken jaw  
3 and three loose tooth -- teeth. I had the doctors  
4 to do X-rays of him. He did not have a broken  
5 jaw, but he did have three teeth that were loose.  
6 Other than that, he had one little mark on his  
7 back. And I sent that report to the District  
8 Attorney here. And this was -- that was  
9 complete. I was through with it.

10 Q Okay. So --

11           A       Because if anybody had wanted to pick it up and  
12                   investigate, it wasn't in my jurisdiction to do  
13                   that.  So this took place approximately two or  
14                   three weeks after he got there.

15 Q Okay. Well, when you went to go and speak to him  
16 the second time, how did you introduce the  
17 subject?

18           A       I asked him. I asked him if he knew a Debra  
19           Blackstone. He said, yes, she's my ex-wife.

20 THE DEFENDANT: Didn't do. Didn't do it.

21 Object.

22	Q	Go ahead.
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23 A And we talked about it, and then I took a  
24 tape-recorded statement from him.

25 MS. STINSON: No further questions, Your



1 Honor.

2 MR. BINFORD: That's all.

3 THE COURT: You may step down.

4 MR. BINFORD: May he be excused also?

5 THE COURT: Yes, sir. You're excused, and  
6 you may go. Who will the State have next?

7 MR. BINFORD: Judge, we rest at this time.

8 THE COURT: Ladies and gentlemen, I hate to  
9 be running you back and forth between the jury  
10 room. I know you think we're going to wear a hole  
11 in the floor between here and there. But if you  
12 will, I'm going to ask you to go back to the jury  
13 room at this time. Recall the instructions I've  
14 given you, and we'll call for you shortly to  
15 continue. Thank you very much.

16 (Jury not present.)

17 THE COURT: Let the Record show that this is  
18 out of the presence and the hearing of the trial  
19 jury.

20 The State has rested.

21 Now, Mr. Lingo, I need your attorney's  
22 attention. You are constantly on top of her and  
23 bothering her, and you don't give anybody a chance  
24 to do anything. I need to talk to your attorney.

25 THE DEFENDANT: Okay, Judge. You can talk to

1 her.

2 THE COURT: Ms. Stinson --

3 MS. STINSON: Yes, sir.

4 THE COURT: -- the State has rested. Do you  
5 have any motions to make?

6 MS. STINSON: I would like to argue for a  
7 motion for acquittal, Your Honor.

8 THE COURT: All right.

9 MS. STINSON: Your Honor, as I'm sure the  
10 Court is aware, Mr. Lingo has been charged with  
11 intimidating a witness. I realize that the  
12 evidence seems very harsh. However, I don't  
13 believe that the State has met the burden as far  
14 as the elements of intimidating a witness. Mr.  
15 Lingo was just trying to come to terms with Ms.  
16 Blackstone. Granted it went a little bit further  
17 than what it may have should have gone. But he  
18 was basically trying to reconcile with her. The  
19 elements of intimidating a witness -- they have to  
20 prove three different things -- or one of the  
21 other of them; that is, corruptly influence the  
22 testimony of a person; induce that person to avoid  
23 legal process, summoning him to testify; induce  
24 that person to absence himself from an official  
25 proceeding. He was not trying to get her to

1 absent herself from the proceeding. Nor was he  
2 trying to get her to avoid any kind of legal  
3 summons. All he was trying to do was to reconcile  
4 with her and hopefully be able to resolve it among  
5 themselves. That's all he was doing, Your Honor.  
6 He was not trying to corruptly influence her  
7 testimony.

8 THE COURT: Where is the letter? I saw it,  
9 but I never really read it.

10 MR. BINFORD: It's here.

11 THE COURT: Let me ask you this. Mr.  
12 Binford, I'm looking at intimidating a witness.  
13 The statute on intimidating a witness, in order to  
14 constitute the offense of intimidating a witness,  
15 it says that a person commits the crime of  
16 intimidating a witness if he attempts by use of a  
17 threat directed to a witness or a person he  
18 believes will be called as a witness in any  
19 official proceedings to corruptly influence the  
20 testimony of that person. I don't see in here  
21 where -- in this letter where there's any attempt  
22 to corrupt the testimony -- or to avoid legal  
23 process summoning him to testify -- and I don't  
24 see any demand that that be done -- or induce that  
25 person to absent himself from an official

1 proceeding to which he has been legally summoned.  
2 There's nothing in here -- the threats that are  
3 made are concerning that legal proceeding is, I  
4 want you to drop that case.

5 MR. BINFORD: Judge, I had an argument, when  
6 you tell me to give it, I'll make it.

7 THE COURT: I will never contact you again.  
8 You drop your phony warrant or you will be sued at  
9 the right time and arrested with warrants against  
10 you.

11 I guess my whole problem is that I  
12 don't see where this fits into any of these one,  
13 two, or three. Now, you may convince me that it  
14 does. But right offhand I don't see it.

15 MR. BINFORD: Judge, my argument and my  
16 argument to the jury would be that, you know,  
17 maybe he didn't want to try to influence her  
18 testimony or corruptly influence, and maybe he  
19 didn't -- it wasn't trying to induce her to avoid  
20 legal process or maybe he wasn't trying to get her  
21 to absent herself to a proceeding. But when you  
22 consider the letter in total --

23 THE COURT: I mean, the letter is bad.

24 MR. BINFORD: Yes, sir.

25 THE COURT: It's a horrible letter. And I'm

1 just trying to clearly fit it into the --

2 MR. BINFORD: What I'm saying is, Judge, they  
3 ought to decide that. When the Court views the  
4 evidence in the light most favorable to the State  
5 as the Court does at this point, has the State  
6 made out a prima facie case, I say absolutely we  
7 made out a prima facie case. Now, if they have  
8 some evidence to rebut that and take it to the  
9 jury and say, oh, no, that was not my intent, I  
10 had some other kind of intent, I only wanted to  
11 get her to drop the case, well, that's fine, they  
12 are entitled to do that. But at this point at  
13 this stage of the proceedings, the letter taken in  
14 its totality along with the pictures with  
15 knowledge that she was a witness in a case having  
16 taken out one week before she got this  
17 communication from him would in my opinion allow a  
18 reasonable juror to conclude that this was a  
19 threat in order to make her not come to court or  
20 to change her testimony or to avoid legal summons.  
21 In other words, I don't think there's any  
22 requirement in the law that -- where the State  
23 would have to prove that a direct communication  
24 was sent to a witness, you'd better not accept a  
25 subpoena. We don't have to prove that in my

1 opinion reading the law. We don't have to have  
2 someone prove that someone said directly, you'd  
3 better lie under oath, you'd better change your  
4 testimony, you'd better not show up to court. We  
5 don't have to have testimony is what I'm saying  
6 under the law directly on that. Is this  
7 circumstantial evidence of his intent to  
8 accomplish those things that intimidating a  
9 witness outlaws, I would say, yes. You know,  
10 certainly a jury has a right either to accept  
11 that or reject that. And if he's got some  
12 evidence that he wants to present to the contrary,  
13 then by all means, you know, it's wide open, let  
14 him do it. But in reality, Judge, I would think  
15 that the State would rarely have a case where a  
16 defendant says, you'd better change your  
17 testimony, you'd better lie under oath, you'd  
18 better not accept a subpoena, you'd better not  
19 come to court. In reality, people send it like  
20 this. Anonymous messages clothed with what things  
21 are going to happen to you if you continue with  
22 the prosecution. So my argument, Judge, really  
23 boils down to this. At this stage, a jury ought  
24 to have a right to decide yea or nay on that. And  
25 I don't think any Court would be reversed by

1           allowing this case to go to a jury.

2           MS. STINSON: May I respond, Your Honor?

3           THE COURT: Okay.

4           MS. STINSON: My thinking, though, is this.  
5           The warrant was issued against Mr. Lingo. A  
6           couple of days later he tries to get in touch with  
7           her to see if they can come to some type of  
8           agreement. It did not get to the point where it  
9           was actually going to trial. He knew nothing  
10          about a court date. He knew nothing about her  
11          being summoned. Nothing like that. He was just  
12          trying to resolve it before, you know, it went any  
13          further. He was hoping this to be a friendly  
14          ending like he stated in the letter. That he  
15          would have no more contact with her and stuff. He  
16          just wanted to talk over with her this situation.  
17          He was not trying to influence her testimony or  
18          anything like that. He felt like it was a  
19          misunderstanding. You know, he wanted to resolve  
20          it that way.

21          THE COURT: I understand what you're saying.  
22          And if the threats weren't in it, then, you know,  
23          I might buy that. But there are threats in it.

24          MR. BINFORD: Judge, what I think Ms. Stinson  
25          just said is a good jury argument. You can argue

1           that to a jury.

2           THE COURT: It's a good jury argument. But  
3           there are threats in the letter.

4           MR. BINFORD: Judge, there's also a reference  
5           in here, you better back off from me. I think a  
6           jury should be entitled to conclude for themselves  
7           what he means by that based upon all of the  
8           evidence. There's some stuff on you I won't  
9           mention; if you don't want to go down, you better  
10          back off from me. Well, does that mean don't go  
11          to court? You know, the jury ought to decide that  
12          is what I'm saying. If they want to say this is  
13          just a friendly communication in an effort to  
14          reconcile, they're entitled to argue that, put on  
15          any testimony they have to that effect. But he's  
16          not now talking about dismissing a warrant, he's  
17          talking about backing off. And I don't think the  
18          law requires us to prove that he use statutory  
19          language in his threats. But we are entitled to  
20          prove that he made those threats by the language  
21          he used in this letter.

22          MS. STINSON: Your Honor, I did not mean to  
23          intend or give the impression that it was  
24          friendly, but he was desperate. You know, he was  
25          trying to make amends with his ex-wife. And he



1           wanted to see if he could -- if they could resolve  
2           it between themselves, and that's it. You know,  
3           he had no intention of, like I said, corrupting  
4           her testimony or inducing her to avoid a summons,  
5           or anything like that. It had not come to that  
6           point during the -- you know, for the warrant. It  
7           hadn't come to that point.

8           MR. BINFORD: Judge, I disagree with that,  
9           and I think a jury could reasonably disagree with  
10          that. A jury ought to decide that.

11          THE COURT: What is the -- I know in her  
12          opening argument she was talking about lesser  
13          included offenses. As you understand it, what is  
14          the difference in 13A-10-123, 13A-10-124, and  
15          13A-6-25?

16          MR. BINFORD: Tampering with a witness is no  
17          threat. That would be, like, asking somebody not  
18          to go to court, Judge, or asking somebody to  
19          change their testimony and not threatening them.

20          THE COURT: Okay. No threat. And then  
21          criminal coercion says that a person commits the  
22          crime of criminal coercion if without legal  
23          authority he threatens to confine, restraining --  
24          okay. Tell me the difference between that and --

25          MR. BINFORD: Criminal coercion is different

1 from the intimidating a witness charge because  
2 there's no court involved with necessary criminal  
3 coercion as I understand it, Judge.

4 MS. STINSON: It's basically trying to get a  
5 person to do something against their will that's  
6 unlawful or to refrain from doing a lawful act is  
7 what it boils down to.

8 THE COURT: There's no -- nothing to do with  
9 the court --

10 MS. STINSON: I don't want to say it's no  
11 court. But it's like anything that is legal, for  
12 instance -- not necessarily telling somebody going  
13 to court, but I guess -- I would think just  
14 getting somebody to withhold testimony. If they  
15 knew something about a crime, something to that  
16 effect. Not necessarily that -- the individual  
17 has been charged with a crime and then the witness  
18 finds -- you know, knows something about it. They  
19 may not know that the person is charged with a  
20 crime, but they may know -- I'm not making any  
21 sense. Basically --

22 THE COURT: But your understanding is the  
23 difference is there's no court?

24 MR. BINFORD: Not necessarily court action.

25 MS. STINSON: Yeah. Yeah.

1 MR. BINFORD: Doesn't necessarily involve a  
2 court proceeding. It could, but it doesn't  
3 necessarily involve it.

4 THE COURT: Are you ready to proceed?

5 MS. STINSON: Yes, sir.

6 THE COURT: The motion for a judgment of  
7 acquittal is denied.

8 (Jury present.)

9 THE COURT: Please, ma'am, who will you  
10 have?

11 MS. STINSON: Your Honor, I don't have any  
12 witnesses.

13 THE COURT: The Defendant rests?

14 MS. STINSON: Yes, sir.

15 THE COURT: Is the State ready to argue its  
16 case to the jury?

17 MR. BINFORD: Yes, sir.

18 (At which time closing arguments were  
19 made by Mr. Binford.)

20 THE COURT: Ms. Stinson.

21 (At which time closing arguments were  
22 made by Ms. Stinson.)

23 THE COURT: Mr. Binford.

24 (At which time rebuttal arguments were  
25 made by Mr. Binford.)

1 MS. STINSON: Objection, Your Honor. There's  
2 not people that's been told that.

3 MR. BINFORD: His own ex-wife testified.

4 THE COURT: There's been some evidence in the  
5 trial on questioning by you-all. I overrule.

6 (At which time rebuttal arguments were  
7 continued by Mr. Binford.)

8 THE COURT: Now, ladies and gentlemen, you're  
9 the trial jury in this case of the State of  
10 Alabama versus Ralph Wilson Lingo. And Ralph  
11 Wilson Lingo is being placed upon trial before you  
12 here today on an indictment which was returned by  
13 the grand jury of Houston County, Alabama, back on  
14 or about the 16th day of September, 2003, and this  
15 indictment reads as follows. It says here that  
16 the State of Alabama, Houston County, Circuit  
17 Court, Twentieth Judicial Circuit, July term,  
18 2003, the grand jury of said county charge that  
19 before the finding of this indictment that Ralph  
20 Wilson Lingo, whose name is to the grand jury  
21 otherwise unknown, did attempt by use of a threat  
22 directed to Debra Tice Blackstone, a witness or a  
23 person he believed would be called as a witness in  
24 an official proceeding, to corruptly influence the  
25 testimony of the said Debra Tice Blackstone, to

1 induce Debra Tice Blackstone to avoid legal  
2 process summoning her to testify, or to induce  
3 Debra Tice Blackstone to absent herself from said  
4 official proceedings to which Debra Tice  
5 Blackstone had been legally summoned, in violation  
6 of Section 13A-10-123 of the Code of Alabama  
7 against the peace and dignity of the State of  
8 Alabama. Now, as we've said, as these attorneys  
9 have told you repeatedly, that indictment charges  
10 this Defendant here with intimidating a witness.

11 Now, the law of the state of Alabama at  
12 Title 13A Subsection -- or Section 10-123 says  
13 that a person commits the crime of intimidating a  
14 witness if he attempts by use of a threat directed  
15 to a witness or a person he will -- believes will  
16 be called as a witness in any official proceeding  
17 to either corruptly influence the testimony of  
18 that person, induce that person to avoid legal  
19 process summoning him to testify, or induces that  
20 person to absent himself from an official  
21 proceeding to which he has been legally summoned.  
22 That's a lot I know to take in. But let me go  
23 over that with you again because I want you to  
24 understand what it takes to make up the crime or  
25 the offense of intimidating a witness under the

1 laws of this state. The statute says that a  
2 person commits the crime of intimidating a witness  
3 if he attempts by use of a threat -- and I'm going  
4 to define in just a minute what I mean by a threat  
5 -- if he attempts by use of a threat directed to a  
6 witness or to a person that he believes will be  
7 called as a witness in any official proceeding to  
8 either corruptly influence the testimony of that  
9 person, or induce that person to avoid legal  
10 process summoning him to testify -- that means to,  
11 like, for instance, to hide from the sheriff to  
12 keep from getting a subpoena so you won't have to  
13 come to court -- or to induce that person to  
14 absent himself from an official proceeding to  
15 which he has been legally summoned -- that means  
16 trying to induce the person who has received a  
17 legal subpoena to go to court to avoid going to  
18 court and to stay away from going to court in that  
19 proceeding to which he has been summoned.

20 Now, the law says that -- or defines  
21 threat. It says that threats used in this section  
22 means any threat prescribed by Section 13A-6-25 on  
23 criminal coercion. So then we turn to 13A-6-25 to  
24 see what the law says that a threat is, what the  
25 definition of a threat is. And in that section on

1 criminal coercion it defines threat as being a  
2 threat to confine or restrain a person, or to  
3 cause physical injury to the threatened person or  
4 to some other person, or to damage the property or  
5 to damage the reputation of the threatened person  
6 or another person with the intent thereby to  
7 induce the threatened person.

8 Therefore, in order to sustain the  
9 charge of intimidating a witness in this  
10 particular case, the State of Alabama must have  
11 proven to you beyond a reasonable doubt that Ralph  
12 Wilson Lingo attempted -- that Ralph Wilson Lingo  
13 attempted by the use of a threat, a threat being  
14 directed to Debra Tice Blackstone, the State's  
15 witness, or a person that he believes will be  
16 called as a witness or she would qualify as a  
17 witness or a person believed to be called as a  
18 witness in a legal proceeding. So, of course, the  
19 State attempted to show you that she was a witness  
20 and expected to be called as a witness in a legal  
21 proceeding in the Municipal Court of the City of  
22 Dothan where she had taken out a warrant and had  
23 charged him with harassing communications in the  
24 Municipal Court of the City of Dothan, and that he  
25 intended by making this threat to corruptly

1 influence the testimony of Debra Tice Blackstone,  
2 or that he intended to induce Debra Tice  
3 Blackstone to avoid legal process summoning her to  
4 testify, or that he through the use of that threat  
5 intended to induce Debra Tice Blackstone to absent  
6 herself from the trial of that case in Municipal  
7 Court to which she had been legally summoned.  
8 Now, that's what it takes to make up the offense  
9 of intimidating a witness.

10 And let me go over that with you once  
11 more. In order to sustain the charge of  
12 intimidating a witness in this case, the State of  
13 Alabama must have proven to you beyond a  
14 reasonable doubt that this Defendant, Ralph Wilson  
15 Lingo, attempted by the use of a threat directed  
16 to Debra Tice Blackstone, who was a person that  
17 was a witness in the case against him or a person  
18 that he believed would be called as a witness in a  
19 legal proceeding against him in the Municipal  
20 Court of the City of Dothan, Alabama, that he by  
21 making that threat intended to corruptly influence  
22 her testimony, the testimony of Debra Tice  
23 Blackstone in that case; or that he intended to  
24 induce Debra Tice Blackstone to avoid legal  
25 process summoning her to testify, that means that



1 he intended to induce her to keep from being  
2 served with a summons to go to court to testify  
3 against him; or that he intended to induce Debra  
4 Tice Blackstone to absent herself from an official  
5 proceeding to which she had been legally summoned,  
6 that being, of course, the hearing of the case in  
7 the City of Dothan Municipal Court where he had  
8 been charged with harassing communications.

9 Now, you need to remember that the law  
10 defines a threat as being a threat to confine or  
11 restraining, or to cause physical injury to the  
12 threatened person or to another person, or to  
13 damage the property or the reputation of the  
14 threatened person or another person with the  
15 intent thereby to induce the threatened person or  
16 another against his will to do an unlawful act or  
17 refrain from doing an unlawful act -- actually, I  
18 read too much to you there. The threat is simply  
19 -- the threat must be to confine, restraining, or  
20 to cause physical injury to the threatened person  
21 or another person; or the threat might be one to  
22 damage the property or reputation of the  
23 threatened person or another person.

24 Now, after you have had the opportunity  
25 to weigh and to consider the evidence in this

1 case, that for the State and that for the  
2 Defendant, if you're convinced beyond a reasonable  
3 doubt that this Defendant is guilty of that  
4 offense of intimidating a witness as charged in  
5 the indictment, then, of course, you should find  
6 him guilty of that offense.

7 On the other hand, if after you've so  
8 weighed and considered all of the evidence you're  
9 not convinced beyond a reasonable doubt that he is  
10 guilty, then you should find him not guilty.

11 Now, I read the indictment in this case  
12 to you, the indictment which charges him with  
13 intimidating a witness. And I need to caution you  
14 that this indictment is not any evidence of this  
15 Defendant's guilt. And it must not and it cannot  
16 be taken by you as any evidence of his guilt of  
17 this offense. The is merely the formal charge  
18 that is made by the grand jury of the county  
19 against a person so that he can be brought before  
20 the bar of justice and before a petit jury, such  
21 as yourselves, and the evidence presented by the  
22 State and evidence presented by the Defendant so  
23 that you, the petit jury, can make a determination  
24 of his guilt or innocence. The indictment is no  
25 evidence of his guilt in this case.

1                   Now, there was some discussion during  
2                   the oral arguments to the jury about lesser  
3                   included offenses. The Court has determined that  
4                   there are no lesser included offenses under the  
5                   evidence in this case. So that will not be  
6                   submitted to you. You have the option, of course,  
7                   if you find beyond a reasonable doubt that he is  
8                   guilty as charged of finding him guilty of  
9                   intimidating a witness. But if you aren't  
10                  convinced beyond a reasonable doubt that he is  
11                  guilty as charged, then you should find him not  
12                  guilty. The evidence in this case does not  
13                  support and does not prove any lesser included  
14                  offense under the law in my estimation.

15                 Now, this Defendant went into the trial  
16                 of this case with a presumption of innocence in  
17                 his favor. And that presumption of innocence  
18                 stays with him and it attends him and abides with  
19                 him throughout the trial of the case until his  
20                 guilt is established to your satisfaction beyond a  
21                 reasonable doubt. And, of course, if after you've  
22                 weighed and considered all of the evidence in the  
23                 case, that for the State and that for the  
24                 Defendant, if there remains in your minds a doubt,  
25                 a reasonable doubt, a doubt for which you can give

1 a reason which came from the evidence and the  
2 evidence alone, then, of course, he would be  
3 entitled to the benefit of that doubt and would be  
4 entitled to an acquittal at your hands.

5 The Defendant, Ralph Lingo, did not  
6 testify during the course of this trial. And, of  
7 course, the law of our state and of our nation  
8 gives him that right and gives him that  
9 privilege. Under our constitution of both the  
10 United States and the State of Alabama, a  
11 defendant being placed upon trial on a criminal  
12 charge has the right to take the witness stand and  
13 to testify in his own behalf if he wants to. But  
14 if he does not want to, he may stay off the  
15 witness stand, refuse to take it, and refuse to  
16 testify. That's his option. His right to  
17 choose. And the law says that when a defendant  
18 does choose to not testify, that cannot and must  
19 not be taken against him by the jury when they  
20 come to weigh and to consider all of the evidence  
21 and to make up their verdict in the case. You  
22 cannot and you must not consider the fact that he  
23 did not testify against him. That's a  
24 constitutional right. And you must not consider  
25 it against him.

1                   Now, if you believe, ladies and  
2 gentlemen, that there's been any witness who has  
3 testified during the course of this trial whom you  
4 believe to have testified willfully falsely about  
5 any material matter in the case, it's within your  
6 right to completely cast aside that witness'  
7 testimony and say that you will not -- you will  
8 not believe anything that he or she has testified  
9 about. Or on the other hand, you could take that  
10 part of the testimony that you believe that the  
11 witness has testified willfully falsely about and  
12 cast it aside and then take that part of the  
13 testimony that you believe that the witness has  
14 testified truthfully about and give to that part  
15 of the testimony whatever weight and whatever  
16 credit that you ladies and gentlemen deem it to be  
17 entitled.

18                   Now, as I've told you repeatedly, the  
19 law requires that you must be satisfied beyond a  
20 reasonable doubt of the guilt of the party being  
21 placed upon trial before you would be justified in  
22 returning a verdict of guilty as against that  
23 party. Now, that does not mean that you must be  
24 satisfied beyond all doubt to an absolute  
25 certainty to the extent that you could not

1 possibly be mistaken. But it does mean that if  
2 after you have weighed and considered all of the  
3 evidence in the case, that for the State and that  
4 for the Defendant, if it is then your fixed  
5 opinion, conviction, and judgment that the  
6 Defendant is guilty, then within the meaning of  
7 our law you are convinced beyond a reasonable  
8 doubt.

9 Now, once the case is submitted to you  
10 for your verdict, you should go back into the jury  
11 room and the first order of business should be the  
12 election of a foreman. You should decide on a  
13 foreman, or a foreperson, to preside over your  
14 deliberations, to present all of the evidence, to  
15 preside over your proceedings, to take a vote when  
16 you get ready to vote, and then once a verdict has  
17 been rendered to sign that verdict as foreman of  
18 the jury. Whichever verdict you render in this  
19 case, one of your number should sign it as foreman  
20 and it must be unanimous. Each and every one of  
21 you must agree upon it. And the Court will  
22 prepare forms of verdicts in line with those that  
23 I've given to you in my oral charge to aid and  
24 assist you in arriving at the form of your  
25 verdict.

1                   Now, I'm not going to submit the case  
2                   to you for a final verdict this afternoon because  
3                   it's about the end of the day, and I know that you  
4                   have got things that you need to do once you get  
5                   home. And I'm going to take a recess, and then  
6                   you will be allowed to take the case in the  
7                   morning and to reach your verdict in the morning.  
8                   Do not discuss this case among yourselves until I  
9                   submit the case to you and allow you to go back in  
10                  the jury room. Do not discuss the case with  
11                  anyone else. Do not allow anyone to discuss this  
12                  case with you. Do not allow anyone even to  
13                  discuss this case in your presence. And if anyone  
14                  attempts to do either of those things, then you  
15                  should let the Court know immediately. I do not  
16                  anticipate that there will be any newspaper  
17                  accounts of the events of this trial or radio or  
18                  television broadcasts concerning the events of  
19                  this trial because I've not seen any media people  
20                  in the courtroom today. But in the event that  
21                  there should be, you should not read, watch, or  
22                  listen to those news accounts concerning the  
23                  events of this trial. Do not attempt to make any  
24                  independent investigation of the facts of this  
25                  case. You just don't be concerned about this case

1           until you get back here at nine o'clock in the  
2           morning.

3                       If you'll just come back at nine o'clock  
4           in the morning and be in the jury room right at  
5           the end of the hall. It's, actually, the only  
6           room beyond this one toward the west wall of the  
7           courthouse. It's right next door to this  
8           courtroom. If you'll just come back here at nine  
9           o'clock in the morning, and we'll submit the case  
10          to you for your deliberations and to render your  
11          verdict. At this time you may go, and we'll see  
12          you in the morning. Hope you have a good  
13          evening.

14                   THE DEFENDANT: Judge --

15                   THE COURT: I'll give you a chance if you  
16          will.

17                               (Jury not present.)

18                   THE COURT: Let the Record show that this is  
19          out of the presence and hearing of the trial  
20          jury.

21                   MS. STINSON: I just wanted to put it on the  
22          Record that I would object to jury instructions  
23          not being given on criminal coercion and tampering  
24          with a witness for appeal purposes.

25                   THE COURT: I just don't believe that -- a



ne and brought me back.

7.

Okay. They didn't have no  
ay did not show me no search  
l up in my driveway, no Henry  
:. They pull a gun on me. I  
: a hundred -- way across that  
y home. I could not never go  
: was time for me to unlock my  
at there and say we got a  
e. And I said, okay. And I  
ook at it. And they said, no,  
o warrant for nothing. I  
ahead and I cooperate with the  
safe like I was told. I went  
There was no arrest made on  
None. Okay. Then on Debra

what has any of that got to  
Nothing you've said has got  
this charge.

Okay. Okay, Judge. Here's  
at I'm trying to explain to  
being searched, okay, on  
lating the State's witness,

1 Debra all the time call and check my answering  
2 service. Call and say I'm seeing other women. I  
3 thought this what mine and Debra's argument all  
4 about. This ain't the first time me and Debra had  
5 this problem about naked pictures. She threaten  
6 me several times. I mean, I did not know nothing  
7 like this. The law is doing on searching my home.  
8 I didn't know Tony Luker had called her down there  
9 and made a statement. I didn't know anything  
10 about none of that. Not until way after I was  
11 done arrested. But when the arrest on  
12 intimidating a State's witness, I live in Henry  
13 County. Tony Luker pulled me over in Henry -- in  
14 Headland, okay. He called back to Dothan, and it  
15 was six police respond, City of Dothan come to  
16 Headland and handcuff me and brought me and my  
17 vehicle back to Dothan. I asked for a warrant. I  
18 asked to see a warrant. I could not see a  
19 warrant. Okay. Later on, Judge, this what I  
20 got. And I looked -- I mean, I looked to  
21 introduce these law -- I look to have some of  
22 these on record. I mean --

23 THE COURT: No. No. Take your papers. Take  
24 your papers. Go ahead. Okay.

25 THE DEFENDANT: Title 15-10-10, you know.

1 Section 4-3-38. And, you know, a lot more law in  
2 here.

3 THE COURT: Okay.

4 THE DEFENDANT: Conger law. And, plus --

5 THE COURT: Just hand her all of it if you  
6 want to.

7 THE DEFENDANT: Plus the indictment is not  
8 correct.

9 (Complied.)

10 Here you go.

11 THE COURT: Okay. All right.

12 THE DEFENDANT: And the indictment is not  
13 correctly, Judge. It ain't got none of the  
14 special law what is supposed to be on there.

15 THE COURT: Okay. I overrule. You can take  
16 him on.

17 THE DEFENDANT: And another --

18 THE COURT: No. No. You're in his custody.

19 (The proceedings for November 3, 2004,  
20 were concluded.)

21 (Off the Record.)

22

23

24

25

1 IN THE CIRCUIT COURT OF HOUSTON COUNTY

2 STATE OF ALABAMA

3 STATE OF ALABAMA,

4 v.

5 RALPH WILSON LINGO,

6 Defendant.

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\*  
\*  
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\*  
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Case No. CC-2003-599

7  
8  
9 REPORTER'S OFFICIAL TRANSCRIPT ON APPEAL

10  
11  
12 Before:

13 The Honorable Jerry M. White and jury

14 November 4, 2004

15  
16  
17 APPEARANCES:

18 For the State

19 Henry C. Binford, Esquire  
20 Assistant District Attorney

21 For the Defendant

22 Tammy Stinson, Esquire  
23 Dothan, Alabama

24 Carla H. Woodall, CSR  
25 Court Reporter

1 (The proceedings for November 4, 2004,  
2 began.)

3 (At which time the alternate jurors  
4 were excused.)

5 (At 9:05 a.m. the jury began their  
6 deliberations.)

7 (Off the Record.)

8 (At 9:12 a.m. the Court was notified the  
9 jury had reached a verdict.)

10 THE COURT: Bring the jury.

11 THE DEFENDANT: Judge, I had witnesses  
12 subpoenaed in my trial. And none of them were  
13 here in my trial.

14 THE COURT: It might have been that they  
15 didn't know anything that was relevant to this  
16 case. I know you had me subpoenaed -- or wanted  
17 to subpoena me, and I didn't know anything about  
18 the case.

19 (Jury present.)

20 THE DEFENDANT: Well, Judge --

21 THE COURT: Hold it.

22 Mr. Henderson, I understand that you're  
23 the foreman of the jury; is that correct?

24 THE FOREPERSON: Yes, sir, that's correct.

25 THE COURT: And the jury has reached a

1 verdict?

2 THE FOREPERSON: Yes, sir, that's correct.

3 THE COURT: I'll read the verdict.

4 It says here, we, the jury, find the  
5 Defendant, Ralph Wilson Lingo, guilty of  
6 intimidating a witness as charged in the  
7 indictment.

8 (At which time the jury was polled by  
9 the Court.)

10 THE COURT: Let the Record show that the  
11 Court polled the jury and that each and every  
12 member of the jury replied that the verdict was  
13 his or hers.

14 Now, for the time being, ladies and  
15 gentlemen, thank you very much for your service.  
16 If you would, just have a seat back out in the  
17 courtroom, and we'll know pretty soon, you know,  
18 where we are, and we'll be able to let you know.  
19 Thank you very much.

20 Ralph Wilson Lingo, approach the bench.

21 THE DEFENDANT: (Complied.)

22 THE COURT: Now, Ralph Wilson Lingo, the jury  
23 having found you guilty of intimidating a witness  
24 as charged in the indictment, based upon that jury  
25 verdict, I hereby adjudge you guilty of

1           intimidating a witness as charged in the  
2           indictment.

3                       Do you have anything to say as to why  
4           sentence of law should not be pronounced upon you  
5           at this time?

6                       THE DEFENDANT: Yes, sir, I do.

7                       MS. STINSON: We would like to request a  
8           sentencing hearing, please.

9                       THE DEFENDANT: I would love to tell the  
10          Defendant I am sorry for doing it. But, Judge,  
11          the jury were not told the truth. The State  
12          withheld evidence from the jury onto this trial.  
13          I had over ten people subpoenaed to this trial  
14          right here. My arrest out of the jurisdiction and  
15          my home being searched and phone tape we got it  
16          was used for evidence. And there were the State's  
17          witness come involved. And the search warrant,  
18          Judge, did not even dated and signed. Now, I  
19          never got a search warrant until a year later.  
20          And I have wrote probably over twenty --  
21          twenty-five requests asking for a copy of the  
22          search warrant. Couldn't never get one. Finally  
23          I did get one three weeks ago. The date was  
24          wrong. I told my attorney --

25                       THE COURT: Do you have anything else to say

1 as to -- I'm giving you -- I'm not giving you a  
2 chance to stand up here and to rant and rave  
3 against the system that is causing you to be  
4 accountable for what you've done. You can take  
5 him on. You're in the custody of the sheriff.

6 THE DEFENDANT: Judge, why don't you go ahead  
7 and sentence me today.

8 THE COURT: His sentencing hearing is set for  
9 December 9th.

10 MS. STINSON: Thank you, Your Honor.

11 (The proceedings for November 4, 2004,  
12 were concluded.)

13 (Off the Record.)

14  
15  
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1 IN THE CIRCUIT COURT OF HOUSTON COUNTY

2 STATE OF ALABAMA

3 STATE OF ALABAMA,

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4 v.

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Case No. CC-2003-599

\*

5 RALPH WILSON LINGO,

\*

\*

6 Defendant.

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8  
9 REPORTER'S OFFICIAL TRANSCRIPT ON APPEAL

10  
11  
12 Before:

13 The Honorable Jerry M. White

14 December 9, 2004

15  
16  
17 APPEARANCES:

18 For the State

19 Henry C. Binford, Esquire  
20 Assistant District Attorney

21 For the Defendant

22 Tammy Stinson, Esquire  
23 Dothan, Alabama

24 Carla H. Woodall, CSR  
25 Court Reporter

1 (The proceedings for December 9, 2004,  
2 began.)

3 THE COURT: The State of Alabama versus Ralph  
4 Wilson Lingo. I need to know what class this is.

5 MR. BINFORD: It's a Class C with habitual  
6 offender of three prior convictions.

7 THE COURT: Did you give notice?

8 MR. BINFORD: We filed notice. And I would  
9 like to enter proof of the prior convictions.

10 THE COURT: That makes it two to twenty?

11 MR. BINFORD: We would like to offer this.  
12 That's a certificatied copy of the priors.

13 THE COURT: I didn't realize I had  
14 encountered Mr. Lingo before, some twenty years  
15 ago.

16 Mr. Binford, I will hear you as to why  
17 -- or what you think would be a proper sentence in  
18 this case.

19 MR. BINFORD: Judge, first of all, I just  
20 want to correct one thing in the report. It says  
21 he was convicted of sodomy -- or plead down to  
22 sodomy two and sentenced to life in 1995.  
23 Actually, what happened was I think he went to a  
24 jury trial --

25 THE DEFENDANT: Judge --

1 MR. BINFORD: -- and he was convicted of a  
2 crime, and he appealed that, and it was reversed  
3 and rendered by the Court of Appeals. So that is  
4 not a prior conviction --

5 THE COURT: Because they convicted him of a  
6 lesser included offense that was not part of the  
7 original.

8 MR. BINFORD: Yes, sir. And we would having  
9 said that ask the Court to give proper  
10 consideration to the fact that he has compiled in  
11 his life a very impressive history of criminal  
12 arrests going back to 1981. He has managed to  
13 scape through life somehow without spending much  
14 time in the penitentiary in spite of his numerous  
15 arrests. A lot of these were bargoned down. They  
16 were reduced to misdemeanors; for example, assault  
17 third. He was convicted in this court of arson  
18 third back in 1988 -- or convicted in Dale County,  
19 rather, in 1988 of arson in the third degree.  
20 He's managed basically to avoid taking  
21 responsibility for a lot of things all of his  
22 life. And he's now in prison serving a sentence  
23 for arson in Barbour County. I also believe he  
24 has some cases which do not appear on this record  
25 that arise from Covington County. He has an arson

1 case which is pending here in Houston County and a  
2 theft case which is pending here in Houston County  
3 which was remanded back to the grand jury to  
4 correct a defect in the indictment. All of these  
5 arsons, Judge, involve burning trailers and filing  
6 false insurance claims. There just is very little  
7 in the way of good things that you can say about  
8 Mr. Ralph Lingo. He's known to law enforcement in  
9 this part of the state. He has been known to law  
10 enforcement and has a very poor reputation with  
11 law enforcement in this part of the state, and we  
12 would ask the Court to consider giving him a  
13 sentence which is commensurate not only with his  
14 record that he presents to the Court today but  
15 with the facts of the case that you have heard at  
16 this trial. He was trying to interfere with a  
17 judicial proceeding. He didn't want the judge at  
18 the city court or a jury or a judge in circuit  
19 court ultimately to decide what should happen with  
20 his case. He wanted to take control of that. He  
21 wanted to be the one who controlled that and not  
22 let a jury or a judge or the city judge decide his  
23 fate. And tampering with witnesses, Judge, I know  
24 it's just a Class C, but if you want to rank the  
25 Class C felonies, I would say that you can start

1 with the felonies that tend to discredit and  
2 disable the court system that we have. He has no  
3 respect for the court system. No respect for this  
4 verdict in this case. And he never will. And we  
5 just ask you to consider that, Judge.

6 THE COURT: Ms. Stinson?

7 MR. STINSON: Your Honor, as Mr. Binford  
8 stated, he does seem like he has a long history.  
9 However, I would like to point out to the Court  
10 that eight of those charges that are listed were  
11 either dismissed or he was acquitted on, and five  
12 of those of the actual charges were misdemeanors,  
13 and then he has the one prior felony in '83 that  
14 Mr. Binford has stated. Also notice that Mr.  
15 Binford stated that a lot of the charges were  
16 reduced. Well, you know, most of these charges  
17 are in Houston County and Henry County. They have  
18 a reputation of being a very tough court system as  
19 far as pursuing prosecutions -- or cases. The  
20 fact that it was reduced leaves me to believe that  
21 maybe there wasn't that much of a case there in  
22 the first place. He also does have two pending  
23 charges, but at this point in time he's not been  
24 convicted of them. I would ask that, you know,  
25 the sentence be as low as possible and also that

1           it is run concurrent with the Barbour County case  
2           that he's serving time on now.

3           THE COURT: Ralph Lingo, approach the bench,  
4           please.

5           THE DEFENDANT: (Complied.)

6           THE COURT: Ralph Lingo, the jury having  
7           found you guilty of intimidating a witness and  
8           your having been adjudicated guilty of that  
9           offense back on November 4, 2004, do you have  
10          anything to say as to why sentence of law should  
11          not be pronounced upon you at this time?

12          THE DEFENDANT: Yes, sir, I do. I would like  
13          to, you know, say what I got to say. I would love  
14          for it to be on Record.

15          THE COURT: The lady is sitting there.

16          THE DEFENDANT: I introduced some law into  
17          the Court and gave it to you, Judge, about my  
18          jurisdiction rights and about the search warrant,  
19          the way all this case begin and also the  
20          indictment is wrong. And, you know, and the  
21          witnesses. I was denied my witnesses. And, you  
22          know, and I did not have allowed to testify. And,  
23          you know -- I had no control over the jury. Three  
24          people on the jury my wife knowed. Me and my wife  
25          are common-law married. We got a bank account

1 together. You know, and none of this was never  
2 brought out, you know. I never got a chance to --  
3 to really, you know, let the Court know  
4 everything, you know. My home was searched. You  
5 know, I never got a search warrant until three  
6 weeks ago. And, you know, and Debra Blackstone  
7 was never summoned -- I mean, never gave a summon  
8 to be a -- a state witness until after all of this  
9 was done did, and -- you know. And I felt like  
10 the charges, you know, was a Class A felony.  
11 And --

12 THE COURT REPORTER: Was what?

13 THE DEFENDANT: A Class A felony.

14 THE COURT REPORTER: Okay.

15 THE DEFENDANT: And, Judge, you know, the  
16 District Attorney a minute ago stated on an  
17 intimidation of state witness, yeah, we'll let the  
18 man have one, a ten thousand dollar bond. Judge,  
19 my bond was two hundred thousand dollars because  
20 my wife used to date the judge.

21 THE COURT: Which judge?

22 THE DEFENDANT: Judge Larry Anderson, you  
23 know. And all of this was brought into the  
24 Record. But, you know, I never -- it was denored  
25 (phonetic), you know.

1 THE COURT REPORTER: It was what?

2 THE DEFENDANT: It was never brought out. I  
3 mean, none of my attorney would never bring all  
4 this out. The habeas and corpus bond hearing, you  
5 know, I asked for a transcript where I can appeal  
6 the decision on a bond where I can try to make  
7 bond and get out where I can hire an attorney,  
8 and, you know, and have me a fair chance, you  
9 know, to prove ain't none of this true. And I was  
10 denied all my rights. I feel like, you know. I  
11 mean, you know, and, you know, Judge -- and I  
12 respect the Court. And I respect you. I respect  
13 everybody. But I just feel like, you know, all my  
14 constitution was violated. I mean, you know, my  
15 home broken into and no search warrant for  
16 eighteen months. No search warrant. And, you  
17 know. And then we all a sudden got a city search  
18 warrant, and then we got a search warrant that was  
19 signed by you, Judge, three weeks ago. And all  
20 this here tape and everything where the police  
21 department been listening to, making charges  
22 against me, these tapes here go back fifteen  
23 sometimes eighteen years back, you know. And they  
24 getting trying to piece stuff together, trying to  
25 make charges against me, you know. I had no



1           problem. My name was forged to a false bill of  
2           sale cause a trailer to be burt. I've been denied  
3           taking warrant out on the people. I have been  
4           denied fair -- you know, all my rights been  
5           violated, you know. And I got all these  
6           documents, you know, by the Court, had send my  
7           document back to me, and I thank the Court for  
8           that, you know. And now, you know, it look like,  
9           I don't know we have to go through appeal process  
10          now. I don't really know, Judge. But it look  
11          like, you know, I, you know, ought to have a fair  
12          chance, you know, say, hey, give this man a bond  
13          where he can hire an attorney, hire an  
14          investigator, you know, go out here and prove he  
15          innocent or not or him guilty. That's what trial  
16          is all about, you know. Give that man a fair  
17          chance. And then you find that man guilty, and  
18          then, you know, that a different story. Then hand  
19          the law down. But don't lock a man up where he  
20          can't work and get attorney. I mean, the court  
21          session don't pay these attorneys here enough  
22          money to fight your case. Ain't know court's  
23          attorney that fight for you like is supposed to be  
24          fought. Because ain't no money there for them.  
25          And, you know, I can go out there and go to work

1 and not hardly get paid, you know. And me and my  
2 attorney, you know, I ain't going no where with my  
3 attorney, you know. And but, you know, I just  
4 feel like, you know, all my rights been violated.  
5 And I had filed for a hearing been set up on the  
6 reason why I been asking for a re-trial. And, you  
7 know, the Court won't respond. I been asking for  
8 a hearing --

9 THE COURT: Ralph --

10 THE DEFENDANT: Yes, sir.

11 THE COURT: -- I'm going to give you about  
12 five more minutes to talk, and then I'm going to  
13 stop you. So everything you want to say you need  
14 to say in the next five minutes.

15 THE DEFENDANT: The court paper -- I mean,  
16 the jurisdiction paper I gave was never introduced  
17 into the law. I mean, I gave them to the judge,  
18 but I don't know -- did the court session ever get  
19 them -- the Title 15-10-10 and Title 6-5-33-8 and  
20 Title 11 -- I forgot the other two codes on  
21 jurisdiction rights, you know. And also, Judge, I  
22 was arrested in Barbour County for this, not --  
23 Henry County. I wasn't taken to the Henry County  
24 Jail and booked and transported back. I asked the  
25 officers. The officer said, no, I can do what I

1 want to, I can do anything I want to in Henry  
2 County. And took me to the City of Dothan, held  
3 me there I think for three days, and then  
4 transported me to the County. You know, I just  
5 felt like all my rights was violated. So, you  
6 know -- and I still hadn't had my trial on my  
7 search warrant, well, you know, that be okay now.  
8 I done filed that into the Federal Court.

9 THE COURT REPORTER: To the what?

10 THE DEFENDANT: I filed into the Federal  
11 Court Middle District for a hearing on the search  
12 warrant because I just feel like all my rights  
13 been violated. And that's all I got to say,  
14 Judge.

15 MR. STINSON: Can I point out one thing, Your  
16 Honor?

17 THE COURT: Sure.

18 MS. STINSON: I noticed he had stated this  
19 was a Class A felony. That's not correct, and  
20 I've already told him that.

21 THE COURT: No. No. It's a Class C.

22 MS. STINSON: Correct.

23 THE COURT: And he has one prior conviction  
24 that the State has filed a certificatied copy of  
25 his conviction on, which bumps it up to a Class

1 B.

2 THE DEFENDANT: Judge, I would like one more  
3 thing.

4 THE COURT: Okay. You got --

5 THE DEFENDANT: I'm sorry.

6 THE COURT: I'm keeping time, and then I'm  
7 going to stop you.

8 THE DEFENDANT: Okay. I got mad with my  
9 attorney during court. But the thing -- I wasn't  
10 understanding, you know. The jail over there  
11 won't give my medication to me. I been trying to  
12 see a doctor. I ain't been seen one. I'm about  
13 like the other gentleman over there. You know, we  
14 in jail, and we catching all type of trouble. We  
15 got to getting all types of disease and stuff over  
16 there, you know.

17 UNKNOWN PERSON: For real.

18 THE DEFENDANT: But anyway, you know, I want  
19 to tell my attorney in the Court present in the  
20 public present I am sorry for my behavior.

21 MS. STINSON: Thank you.

22 THE DEFENDANT: And I want to -- I want that  
23 public known, you know. I would -- I wouldn't say  
24 it and a lot of things I wasn't understanding, you  
25 know. You know, I've been sick here lately, you

1 know. I've been having mental problems, and, you  
2 know, and I never got no help for it. And as of  
3 today I ain't got no help. And, you know, I keep  
4 being denied medical attention. And so, Judge,  
5 that -- well, go ahead.

6 MR. STINSON: Your Honor, his family did  
7 mention something to me about his behavior and  
8 stuff and they were concerned about that. Now, I  
9 have not heard anything from Mr. Lingo as far as  
10 what's going on. But they have mentioned that to  
11 me.

12 THE COURT: I hereby sentence you to  
13 imprisonment in the penitentiary of the State of  
14 Alabama for a period of twenty years. And as  
15 further and additional punishment I hereby fine  
16 you ten thousand dollars and all costs of court,  
17 which will include a one thousand dollar Victim's  
18 Compensation assessment. This sentence is to run  
19 consecutive with any sentences presently being  
20 served.

21 MS. STINSON: Your Honor, we would like to go  
22 ahead and note that he will be entering an  
23 appeal. I also would like to go ahead and  
24 withdraw from the case and have it transferred to  
25 another attorney. My understanding it's -- Mr.

1 Lamere has a conflict so it will need to go to  
2 another court.

3 THE DEFENDANT: And we ask for appeal bond,  
4 Judge. Appeal and appeal bond. A reasonable  
5 appeal bond.

6 THE COURT: Okay. I'll take care of that  
7 later.

8 MS. STINSON: Thank you, Your Honor.

9 (The proceedings for December 9, 2004,  
10 were concluded.)

11 (Off the Record.)  
12  
13  
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25

\* \* \* \* \*

REPORTER'S CERTIFICATE

\* \* \* \* \*

STATE OF ALABAMA

COUNTY OF HOUSTON

I, Carla H. Woodall, Court Reporter and  
Notary Public in and for the State of Alabama at Large,  
do hereby certify that the above-styled and numbered  
cause was reported stenographically by me and is a true  
and correct transcript of the testimony, objections,  
motions, rulings of the Court, and was transcribed by  
or under my direction and control.


I further certify that I have filed all  
exhibits offered in the trial of this cause, if any,  
with the Circuit Clerk of Houston County, Dothan,  
Alabama, for incorporation into the Record on Appeal.

I further certify that I have on this day,  
filed with the Clerk of the Court of Criminal Appeals,  
the Attorney General, and the parties here involved, a  
copy of the Reporter's Index to the Testimony and a  
Certificate of Completion of Reporter's Transcript of  
the said cause.

I further certify that I have filed the  
original and three copies of this transcript in the

1 office of the Circuit Clerk of the Circuit Court of  
2 Houston County, Dothan, Alabama.

3  
4 Done this the 28th of January, 2005.

5  
6   
7 Carla H. Woodall, CSR  
8 Court Reporter and Notary Public  
9 State of Alabama at Large  
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State of Alabama Unified Judicial System  Form ARAP 13	<b>CERTIFICATE OF COMPLETION          REPORTER'S TRANSCRIPT</b>	Page Number  121
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TO: The Clerk of the Court of Criminal Appeals  
 P. O. Box 301555  
 Montgomery, Alabama 36130-1555

Fax: (334) 242-4689

Criminal Appeals Case Number CR 04 - 0602

Ralph Wilson Wingo v. State of Alabama  
 Appellant's Name Appellee

On appeal from the: ☒ Circuit Court of  
☐ District Court of  
☐ Juvenile Court of } Houston County

Trial Court Case Number CC-2003-599

Notice of Appeal Date 12-9-2004

I, Carla H. Woodall, certify that I have this date completed and filed with the clerk of the trial court an original and three copies of a true and correct transcript of all proceedings in the above referenced case that were reported by me and were specifically designated by the appellant for inclusion on the Reporter's Transcript Order. The transcript, which is numbered serially in the upper right-hand corner of each page, begins with a copy of the Reporter's Transcript Order and an index of both the exhibits and the testimony of the witnesses. The original transcript concludes with the original of this notice and the copies of the transcript conclude with copies of this notice. The page number appearing in the upper right-hand corner of this certificate is the last page of my portion of the transcript in this case.

Done this the 28<sup>th</sup> day of January, 2005.

Carla H. Woodall  
 Court Reporter

**FILING AND SERVICE OF THIS FORM:** Pursuant to Rule 11(b), A.R.App.P., the court reporter should file a copy of this certificate with the Clerk of the Court of Criminal Appeals and should serve copies of the certificate on counsel for the appellant or the appellant if he or she is not represented by appellate counsel; the attorney general and the district attorney, unless the appeal is from a municipal appeal, in which event a copy of the form should be served on the municipal prosecutor rather than the attorney general and district attorney.

AP 14-3 Certificate of Completion and Transmittal of Record on Appeal by Trial Clerk

Total Pages 351

CERTIFICATE OF COMPLETION AND TRANSMITTAL  
OF RECORD ON APPEAL BY TRIAL CLERK

Ralph Lingo  
Appellant

V.

State of Alabama  
Appellee

TO: The Clerk of the Court of  
Criminal Appeals of Alabama

Case No. CC-2003-599

Date of Notice of Appeal 12-9-04

I certify that I have this date completed and transmitted herewith to the appellate court the record on appeal by assembling 229 pages of the Clerk's record, and 121 pages of the Court Reporter's transcript, and that one copy of each of the record on appeal has been served on the defendant and the Attorney General of the State of Alabama for the preparation of briefs.

I certify that a copy of this certificate has this date been served on counsel for each party to the appeal.

DATED this 31st day of January, 2005.

Judy Boyd

Circuit Clerk

Houston

County

229  
121  
350

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ATTORNEY GENERAL

523085

IN THE ALABAMA COURT OF CRIMINAL APPEALS  
CRIMINAL APPEALS COURT CASE NUMBER **CR-04-0602**

RALPH WILSON LINGO,  
APPELLANT,

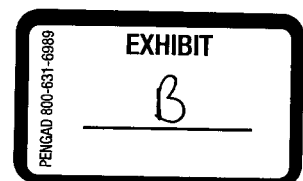
VS.

STATE OF ALABAMA,  
APPELLEE.

ON APPEAL FROM THE CIRCUIT COURT OF  
HOUSTON COUNTY, ALABAMA

CIRCUIT CASE NUMBER CC-03-599

Jon-Patrick Amason, Attorney at Law (AMA005)  
Ala. State Bar # ASB-1057-T78A  
401 North Foster Street.  
Dothan, Alabama 36303  
(334) 793-9009  
ATTORNEY FOR APPELLANT



**STATEMENT REGARDING ORAL ARGUMENT**

Oral argument is not requested in this matter.

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### STATEMENT OF THE CASE

The Appellant, Ralph Wilson Lingo hereinafter referred to as Mr. Lingo, was indicted on September 5, 2003 for the offense of Intimidating a Witness. (C 7-8).

Mr. Lingo was tried on November 3<sup>rd</sup> and 4<sup>th</sup>, 2004, and December 9<sup>th</sup>, 2004, before the Hon. Jerry White, Circuit Court Judge, Houston County Alabama (R 2), and convicted of Intimidating a Witness by a jury via the indictment.

Mr. Lingo filed a Motion for New Trial on November 5<sup>th</sup>, 2004, (C 195-201), and the Motion for New Trial was denied on November 18<sup>th</sup>, 2004 (C 203). Mr. Lingo also made a Motion for a Judgment of Acquittal on November 3<sup>rd</sup>, 2004, (R 73), and the Motion for Judgment of Acquittal was denied on November 3<sup>rd</sup>, 2004 (C 193).

Mr. Lingo was sentenced on December 9, 2004, to the penitentiary of the State of Alabama for a period of twenty years. (C 4-5). Mr. Lingo was ordered to pay a fine in the amount of \$10,000.00, all of the costs of court, which included a \$1,000.00 payment to the Victim's Compensation Assessment. (C 4-5).

The Defendant gave oral Notice of Appeal on December 9<sup>th</sup>, 2004, (C 6). This Appeal follows.

**STATEMENT OF ISSUES PRESENTED FOR REVIEW**

- I. WHETHER THE TRIAL COURT ERRED IN DENYING TO GIVE A JURY INSTRUCTION ON THE LESSOR INCLUDED OFFENSES OF CRIMINAL COERCION AND TAMPERING WITH A WITNESS? **YES**
- II. WHETHER THERE WAS INSUFFICIENT EVIDENCE TO WARRANT A MOTION FOR JUDGMENT OF ACQUITTAL OF INTIMIDATING A WITNESS? **YES**
- III. WHETHER TRIAL COUNSEL'S ASSISTANCE AT TRIAL WAS INEFFECTIVE? **YES**

### STATEMENT OF THE FACTS

This matter was tried before the Hon. Judge Jerry White, Circuit Judge, presiding, on November 3<sup>rd</sup> through November 4<sup>th</sup>, 2004, and December 9<sup>th</sup>, 2004. The Hon. Henry C. Binford, Assistant District Attorney for the Circuit represented the State. The Hon. Tammy Stinson, Attorney at Law, Dothan, represented the Defendant, Mr. Lingo.

The State called its first witness, Sgt. Tony Luker, who was the investigating officer with the Dothan Police department. (R 24). Sergeant Luker testified that he was involved on a case where Ralph Lingo was accused of Intimidating a Witness. (R 24). Sergeant Luker testified further that he had interviewed Debra Tice Blackstone and Alicia Roberts during the course of his investigation. (R 25).

Sergeant Luker stated that Ms. Blackstone called the Police after receiving a package and a patrol officer came out and took an initial report and took the documents from her. He further stated that he had obtained the documents from the evidence vault. (R 25).

The State's Attorney asked Sergeant Luker the following question:

Q. What was the nature of Ms. Blackstone's complaint when she met with you?

A. Whenever I talked with her, she said that actually, she had taken a warrant out on Mr. Lingo for harassing communications - a city warrant in the city court. After she did that, he was, of course, arrested. And then she received a letter that contained naked pictures of her.

Sergeant Luker then stated that after interviewing Ms. Blackstone and Ms. Roberts he signed a warrant for the arrest of Mr. Lingo for the charge of Intimidating a Witness. (R 27-28). Sergeant Luker further testified that the documents at trial were the same documents he had recieved from the evidence vault. He also stated that Ms. Blackstone was shown these documents and confirmed that they were the same documents that she had received. (R 28).

Next the Defendant, Mr. Lingo, stood up and said that he would like to fire his attorney. Mr. Lingo stated that he had documents that he would like to enter to the court, and that he was not prepared for this trial because the jail would not let him take a bath, shave, have his legal

time with his attorney and that the State did not have any of his witnesses present. Mr. Lingo continued by stating that his home was searched in Henry County and that he was arrested in Henry County by a City of Dothan police officer without a Henry County Deputy present. (R 31).

Mr. Lingo stated further that he did not feel like he was being done right and that he wanted to enter some documents into the Court, whereby the Judge denied his motion. (R 32-33).

The state's next witness called was Ms. Debra Blackstone. She testified that Mr. Lingo was her ex-husband and that they had been married in 1989 and divorced in 1997. (R 33-34). Ms. Blackstone stated that she had signed a warrant against Mr. Lingo on April 24<sup>th</sup>, 2003 for harassing communications in the City of Dothan Municipal Court. She also testified that about a week later she received a letter at her home from some unidentified deliveryman. (R 34).

The State's Attorney showed Ms. Blackstone the documents and asked her if they were nude photographs of her, which she answered yes. She then testified further that Mr. Lingo had taken these pictures of her and that no

one else had access to them as far as she knew. (R 35). Ms. Blackstone was then shown the entire document and asked if this was the exact document that she had received at her home, at which time she responded that it was the same document. (R 36).

Ms. Blackstone also stated that when she received the documents she was overwhelmed because she did not know what Mr. Lingo would do. She also stated that it made her afraid to go to Court but she later went to Court anyway whereby Mr. Lingo was convicted of harassing communications. (R 37). She then stated that when she received the documents she called the police right away and that a patrol officer came out and took a report at her house. At that time she gave the documents to the patrol officer. (R 39). Ms. Blackstone then testified that the documents were in the same condition as they were when she received them at her house. (R 40).

The State then called Alicia Roberts as their next witness. Ms. Roberts testified that she had worked for Mr. Lingo to help fill out paper work and clean his house as well as other odd jobs. The State's attorney then showed Ms. Roberts the documents that were admitted into evidence



and asked her if she recognized them. Ms. Roberts said that she did recognize them because she had written the document. (R 47).

The State's Attorney asked Ms. Roberts the following questions:

Q. And where did you write that?

A. At his home.

Q. Are these your words?

A. Those are his words.

Q. How do you know that these are his words?

A. He told me - - he told me what to write because he couldn't read or write.

Q. Did you write down what he asked you to write?

A. Yes, sir.

Ms. Roberts further testified that she wrote the letter while she was an employee of Mr. Lingo and that she did not add anything to the letter of her own. She also stated that she did not have an axe to grind with Ms. Blackstone and she just did it for Mr. Lingo because she thought it was just a marital thing. (R 48-49).

The state then called Ed Sasser as their next witness. Mr. Sasser testified that he was an investigator with the

Alabama Department of Corrections. (R 54). Mr. Sasser stated that he investigated a complaint concerning an inmate by the name of Ralph Lingo at Bullock County Correctional Facility. (R 54). Mr. Sasser told the State's Attorney that he was investigating a complaint concerning Mr. Lingo and that he was not working on behalf of the Dothan Police Department. He also stated that he had not been contacted by any D.A.'s office to go and investigate the complaint. (R 55).

Mr. Sasser then told the Court that he had went to Bullock County Correctional Facility to speak with Mr. Lingo regarding the complaint. He testified that he read Mr. Lingo his rights and that Mr. Lingo freely and voluntarily waived his rights by signing a Miranda waiver. Mr. Sasser then proceeded to explain the nature of Mr. Lingo's statement that he had taken. (R 56-57). Mrs. Stinson timely objected to the statement and requested that the statement be suppressed due to the fact that it was not relevant to the case and that Mr. Lingo could not read or write so he did not know what he was signing. At this time the Court heard arguments from both sides outside the

presence of the jury and overruled the Defense's objection. (R 58-67).

Mr. Sasser continued to explain the statement that he had taken from Mr. Lingo and said that they talked about the complaint. He also stated that he asked Mr. Lingo about the charge of Intimidating a Witness and asked him if he had ever sent naked pictures to Ms. Blackstone at her house. Mr. Sasser said that Mr. Lingo told him that the deliveryman did not know what was inside the envelope but Ms. Blackstone did. (R 68-69). Mr. Sasser then said that he asked Mr. Lingo why he did that, and at that time Mr. Sasser told him that he had been informed of his rights and that they could stop at any time. Mr. Lingo then stated that he would like to stop now. (R 69). The State then rested.

Mrs. Stinson subsequently made a Motion for Judgment of Acquittal. Mrs. Stinson argued that Mr. Lingo has been charged with Intimidating a Witness, and that the State has not met the burden of proof as to the elements of Intimidating a Witness. (R 73). Mrs. Stinson argued that Mr. Lingo might have taken things further than he should have, but he was only trying to resolve the problems he had

with his ex-wife. Mrs. Stinson stated that the elements of Intimidating a Witness under 13A-10-123 are that the State must show one of the following: 1) That Mr. Lingo had to corruptly influence the testimony of a witness or a person he believes will be called as a witness; 2) That Mr. Lingo tried to induce that person to avoid legal process, summoning them to testify; or 3) That he induced that person to absent themselves from an official proceeding. (R 73). Mrs. Stinson further argued that the State has simply not proven any of the three and the defendant should be acquitted.

The Trial Court then looked at the evidence in front of the court and agreed that there was nothing in the letter to show that Mr. Lingo's conduct fell into the parameters of Intimidating a Witness. (R 74-75). The Court then heard arguments from the State in rebuttal to Mrs. Stinson's argument at which time the trial court denied the motion for judgment of acquittal. (R 82).

The court then allowed closing arguments by both Defense counsel and the State. The Court then charged the jury as to the offense of Intimidating a Witness and the elements thereof. After the Court charged the jury Mrs.

Stinson timely objected to the court's refusal to give a jury charge on the offenses of Criminal Coercion and Tampering with a Witness, which should have been given as lesser-included offenses of Intimidating a Witness. (R 95). The Defendant then proceeded to address the court as to many issues that he felt needed to be discussed regarding his case, and after he had finished the Court overruled his objections. (R 96-99)

The Houston County Jury found the Defendant guilty of Intimidating a Witness. (R 102). The Court then set a sentencing hearing for December 9, 2004 upon the request of Mrs. Stinson. On December 9, 2004 Mr. Lingo requested to address the Court again to state objections to his trial, which after a lengthy recital the Court then sentenced the Defendant to twenty years in the penitentiary of the State of Alabama, a fine of \$10,000 dollars and all cost of court, which will include a \$1,000 Victim's Compensation assessment. (R 117).

Upon sentencing by the Court the Defendant then gave oral notice of Appeal. (R 117).

STATEMENT OF THE STANDARD OF REVIEW  
APPLICABLE TO EACH ISSUE PRESENTED FOR REVIEW

"An individual accused of the greater offense has a right to have the court charge on the lesser offenses included in the indictment, when there is a reasonable theory from the evidence supporting his position. Fulghum v. State, 291 Ala. 71, 277 So.2d 886 (1973). A court may properly refuse to charge on lesser included offenses only (1) when it is clear to the judicial mind that there is no evidence tending to bring the offense within the definition of the lesser offense, or (2) when the requested charge would have a tendency to mislead or confuse the jury. Lami v. State, 43 Ala. App. 108, 180 So.2d 279 (1965). In fact, our decisions are to the effect that every accused is entitled to have charges given which would not be misleading, which correctly state the law of his case, and which are supported by any evidence, however weak, insufficient, or doubtful in credibility. Burns v. State, 229 Ala. 68, 155 So. 561(1934)."

The trial court's denial of a motion for a judgment of acquittal must be reviewed by, "determining whether there existed legal evidence before the jury, at the time the

motion was made, from which the jury by fair inference could have found the appellant guilty." Thomas v. State, 363 So.2d 1020 (Ala.Crim.App. 1978). "In determining the sufficiency of the evidence to support the verdict of the jury and the judgment of the trial court, we view the evidence in the light most favorable to the prosecution." Cumbo v. State, 368 So.2d 871 (Ala.Crim.App. 1978), cert. denied, 368 So.2d 877 (Ala. 1979).

"When reviewing a claim of ineffective assistance of counsel we apply the two-pronged standard of review first announced by the United States Supreme Court in Strickland v. Washington, 466 U.S. 668 (1984). The petitioner must show (1) that his counsel's performance was deficient and (2) that he was prejudiced as a result of his counsel's performance."

SUMMARY OF THE ARGUMENT

Mr. Lingo argues that the trial court erred in refusing to give a jury instruction as to the lesser-included offenses of Criminal Coercion and Tampering with a Witness. Specifically, Mr. Lingo argues that the state failed to prove a prima facie case against him on the charge of Intimidating a Witness. Mr. Lingo argues that the State failed to prove that he attempted to corruptly influence the witness, attempted to induce the witness to avoid legal process, or that he attempted to induce a witness to absent him or her self from an official proceeding that they had been summoned to.

Mr. Lingo further argues that the trial court erred in denying his motion for judgment of acquittal. In particular, he argues that the evidence submitted at trial was merely circumstantial and that the evidence was insufficient to warrant a conviction on the charge of Intimidating a Witness. Mr. Lingo contends that the evidence presented at trial did not prove a prima facie case for the State and that the Judge should have granted his motion for judgment of acquittal.



Mr. Lingo also argues that he was denied the effective assistance of counsel at trial. Mr. Lingo specifically asserts that he requested for his attorney to call certain witnesses on his behalf at trial and his attorney refused to do so. Mr. Lingo also states that he asked his attorney to question the officer on the issues of the validity of his arrest and the search of his home, which trial counsel did not do. Mr. Lingo argues that had he been adequately represented at trial then he probably would have had a different outcome to his case.

## **ARGUMENT**

### **ISSUE ONE**

**WHETHER THE TRIAL COURT ERRED IN DENYING TO GIVE A JURY INSTRUCTION ON THE LESSOR INCLUDED OFFENSES OF CRIMINAL COERCION AND TAMPERING WITH A WITNESS? YES**

The Appellant, Ralph Lingo, contends that the trial court erred in refusing to instruct the jury on the elements of the crime of Criminal Coercion and Tampering with a Witness, arguing that they are lesser-included offenses of Intimidating a Witness. The trial court denied the Defense a jury instruction on Criminal Coercion and Tampering with a Witness. (R 95-99).

The Appellant, through his attorney, moved for a judgment of acquittal at the end of the State's case in chief and the trial court noted that the defense counsel had argued for lesser-included offenses. (R 80). Defense counsel also timely objected to the court's refusal to give a jury charge on the lesser-included offenses of Criminal Coercion and Tampering with a Witness, which the trial court overruled. (R 99). The Appellant argues that since there was no evidence presented at trial to prove

that he tried to corruptly influence the testimony of a witness or person he believes will be called as a witness; or that he tried to induce that person to avoid legal process; or that he tried to induce that person to absent themselves from an official proceeding pursuant to 13A-10-123 Code of Alabama 1975, which is Intimidating a Witness, then he should have been entitled to a jury charge on the lesser-included offenses of Criminal Coercion and Tampering with a Witness.

Pursuant to Section 13A-6-25 Code of Alabama 1975 and Section 13A-10-124 Code of Alabama 1975 the Trial Court should have charged with the jury charge of Criminal Coercion and Tampering With a Witness. The Code of Alabama 1975, Section 13A-6-25 states as follows:

(a) A person commits the crime of criminal coercion if, without legal authority, he threatens to confine, restrain or to cause physical injury to the threatened person or another, or to damage the property or reputation of the threatened person or another with intent thereby to induce the threatened person or another against his will to do an unlawful act or refrain from doing a lawful act.

(b) Criminal Coercion is a Class A misdemeanor;

And Section 13A-10-124 Code of Alabama 1975, on Tampering with a Witness states as follows:

a) A person commits the crime of tampering with a witness if he attempts to induce a witness or a person he believes will be called as a witness in any official proceeding to:

(1) Testify falsely or unlawfully withhold testimony;  
or

(2) Absent himself from any official proceeding to which he has been legally summoned.

(b) Tampering with a Witness is a Class B misdemeanor.

In the instant case the Appellant's trial counsel argued in her motion for judgment of acquittal that there was no evidence presented at trial to prove that the Appellant was guilty of Intimidating a Witness. Trial counsel simply stated that even though the letter that the Appellant sent to his ex-wife was a bit harsh, in no way did it rise to the level of Intimidating a Witness. (R 74) The Appellant was simply trying to resolve the issue with his ex-wife, and in no way did he try to corruptly influence her testimony, or induce her to absent herself from a proceeding, or to avoid legal process. (R 74).

Furthermore, the Trial Court stated that it did not see how the conduct of the Defendant satisfied any of the

elements of 13A-10-123 Code of Alabama 1975. The trial

Court stated:

The statute on Intimidating a witness, in order to constitute the offense of Intimidating a witness, it says that a person commits the crime of Intimidating a witness if he attempts by use of a threat directed to a witness or a person he believes will be called as a witness in any official proceedings to corruptly influence the testimony of that person. I don't see in here where - in this letter where there's any attempt to corrupt her testimony -- or to avoid legal process summoning her to testify - and I don't see any demand that that be done - or induce that person to absent herself from an official proceeding to which she has been legally summoned. There's nothing in here - the threats that are made are concerning that legal proceeding is, I want you to drop that case... I will never contact you again. You drop your phony warrant or you will be sued at the right time and arrested with warrants against you... I guess my whole problem is that I don't see where this fits into any of these one, two, or three.

(R 74-75).

The Trial Court refused to give the jury instructions on Criminal Coercion and Tampering with a Witness because the State argued that the letter taken as a whole could be construed as threat and that the jury should decide if the Appellant intended to intimidate a witness according to the statute. The Trial Court stated that it just seemed like it would be reversible error if they instructed the jury on the offenses of Criminal Coercion and Tampering with a

Witness. However, there was no evidence admitted or testimony given that the appellant's conduct rose to the level set out in the statute for Intimidating a Witness.

The Appellant contends that although there was testimony that the Appellant threatened Ms. Blackstone, the ultimate decision of his conduct should have been given to the jury under the jury charge of Criminal Coercion and Tampering with a Witness.

"A person accused of the greater offense has a right to have the court charge on lesser included offenses when there is a reasonable theory from the evidence supporting those lesser included offenses.' MacEwan v. State, 701 So.2d 66, 69 (Ala.Crim.App. 1997). An accused has the right to have the jury charged on "any material hypothesis which the evidence in his favor tends to establish.'" Ex parte Stork, 475 So.2d 623, 624 (Ala. 1985). 'Every accused is entitled to have charges given, which would not be misleading, which correctly state the law of his case, and which are supported by any evidence however weak, insufficient, or doubtful in credibility,' Ex parte Chavers, 361 So.2d 1106, 1107 (Ala. 1978), 'even if the evidence supporting the charge is offered by the State.' Ex

parte Myers, 699 So.2d 1285, 1290-91 (Ala. 1997), cert. denied, 522 U.S. 1054, 118 S.Ct. 706, 139 L.Ed.2d 648 (1998). However, the court shall not charge the jury with respect to an included offense unless there is a rational basis for a verdict convicting the defendant of the included offense.'"

Therefore a determination of whether under the facts of the instant case, there is a reasonable theory from the evidence to support the theory that Criminal Coercion and Tampering with a Witness were lesser-included offenses of Intimidating a Witness needs to be made.

Section 13A-1-9, Ala. Code 1975, provides, in pertinent part:

- (a) A defendant may be convicted of an offense included in an offense charged. An offense is an included one if:
  - (1) It is established by proof of the same or fewer than all the facts required to establish the commission of the offense charged; or
  - . . . ;
  - (4) It differs from the offense charged only in the respect that a less serious injury or risk of injury to the same person, property or public interests, or a lesser kind of culpability suffices to establish its commission."

Moss v. State, CR-03-1180 (Ala.Crim.App. 2005).

It seems to be well settled that "a defendant is entitled to a charge on a lesser included offense if there is any reasonable theory from the evidence that would support the lesser included offenses." Gavin v. State, 891 So.2d 907 (Ala.Crim.App. 2003); MacEwan v. State, 701 So.2d 66, 69 (Ala.Crim.App. 1997).

The Appellant argues that had the trial court instructed the jury on Criminal Coercion and Tampering with a Witness as a lesser-included offense, then the jury may have found the defendant guilty of one of these lesser offenses rather than Intimidating a Witness under Section 13A-10-123.

It is clear that the evidence presented in this case at trial would have supported instructions on Criminal Coercion and Tampering with a Witness as lesser-included offenses of the offense of Intimidating a Witness, and the trial court committed reversible error by refusing to give such instructions.



ISSUE TWO

WHETHER THERE WAS INSUFFICIENT EVIDENCE TO WARRANT A  
MOTION FOR JUDGMENT OF ACQUITTAL OF INTIMIDATING A  
WITNESS? YES

The second issue presented for review by the Appellant pertains to the sufficiency of the evidence and whether the evidence warrants the Appellant's conviction for Intimidating a Witness. The Appellant asserts that the evidence was insufficient to sustain the conviction. Once the State rested, defense counsel moved for a judgment of acquittal based on the fact that the State had failed to prove a prima facie case on the charge in the indictment. The court denied the motion for judgment of acquittal after supporting arguments were made, and then the defense rested.

The Appellant argues that the State failed to prove the charge in the indictment, specifically, the part of the indictment that states that the Appellant attempted by use of a threat to a witness or person he believed would be called as a witness, to corruptly influence their testimony, to induce them to avoid legal process summoning them to testify, or to induce them to absent themselves from an official proceeding that they had been

summoned to. The State failed to prove beyond a reasonable doubt that the Appellant intended to intimidate a witness.

If the Appellant raises an argument that is based on a sufficiency of evidence issue, then the Court in reviewing that issue must view the evidence presented at trial in a light most favorable to the state. Seaton v. State, 645 So.2d 341,343 (Ala.Crim.App. 1994); Daniels v. State, 581 So.2d. 536 (Ala.Crim.App. 1990) writ denied; Poole v. State, 645 So.2d. 330, 331 (Ala.Crim.App. 1994). Furthermore, " a verdict of conviction will not be set aside on the ground of insufficiency of the evidence unless, allowing all reasonable presumptions for its correctness, the preponderance of the evidence against the verdict is so decided as to clearly convince this court that it was wrong and unjust." Ward v. State, 610 So.2d. 1190, 1191 (Ala.Crim.App. 1992); Johnson v. State, 378 So.2d. 1164 (Ala.Crim.App. 1979), cert. Quashed, 378 So.2d. 1173 (Ala. 1979).

The Appellant contends that there was insufficient evidence to support his conviction. The Appellant was convicted of Intimidating a Witness. The appellant argues

that the State did not prove any of the three elements of Intimidating a Witness. The trial Court even states that they do not see any evidence in the letter that shows that the appellant tried to corruptly influence the testimony of a witness, induce the witness to avoid legal process, or induce the witness to absent themselves from an official proceeding. (R 74-75) The evidence in this case was mostly circumstantial and there was no evidence offered to show that the appellant intended to intimidate a state witness. This Court has previously addressed the viewpoint an appellate must follow in reviewing a conviction based on sufficiency of the evidence.

“‘In determining the sufficiency of the evidence to sustain the conviction, this Court must accept as true the evidence introduced by the State, accord all legitimate inferences therefrom, and consider the evidence in the light most favorable to the prosecution.’” Ballenger v. State, 720 So.2d. 1033, 1034 (Ala.Crim.App. 1998); (quoting Faircloth v. State, 471 So.2d. 485, 488 (Ala.Crim.App. 1984), *aff’d*, 471 So.2d. 493 (Ala. 1985)). “ The test used in determining the sufficiency of evidence to sustain a conviction is

whether, viewing the evidence in the light most favorable to the prosecution, a rational finder of fact could have found the defendant guilty beyond a reasonable doubt." Nunn v. State, 697 So.2d. 497, 498 (Ala.Crim.App. 1997) (quoting O'Neal v. State, 602 So.2d 462, 464 (Ala.Crim.App. 1992)). It is clear in the present case that based on the facts a rational fact finder could not find the appellant guilty of Intimidating a Witness because the State failed to prove any of the elements of the offense that the appellant was charged with.

The trial court's denial of a motion for judgment of acquittal must be reviewed by determining if there was legal evidence in existence before the jury at the time the motion was made, in which a jury, by fair inference, could have found the appellant guilty. Thomas v. State, 363 So.2d. 1020 (Ala.Crim.App. 1978). The appellate court, in reviewing the denial of a judgment of acquittal, will only determine if the legal evidence presented was such that a jury could have found the defendant guilty beyond a reasonable doubt. Willis v. State, 447 So.2d. 199 (Ala.Crim.App. 1983).

It is customary that when a defendant moves for a judgment of acquittal, that the trial court must examine the evidence in order to determine its sufficiency in light of the charges contained in the indictment. Ward v. State, 557 So.2d 848, 850 (Ala.Crim.App. 1990).

The trial court's denial of a motion for judgment of acquittal must be reviewed by determining whether there was legal evidence before the jury at the time the motion was made from which the jury by fair inference could find the defendant guilty. Thomas v. State, 363 So.2d 1020 (Ala.Crim.App. 1978).

It has also been stated that a motion for judgment of acquittal tests the sufficiency of the evidence to support a conviction, "when the evidence raises a question of fact for the jury and such evidence, if believed, is sufficient to sustain a conviction, the denial of a motion for judgment of acquittal by the trial court does not constitute error. Breckenridge v. State, 628 So.2d 1012, 1018 (Ala.Crim.App. 1993); Young v. State, 283 Ala. 676, 220 So.2d 843 (1969). This is not the case here because the evidence was insufficient to prove that the appellant was guilty of the offense he was charged with. However, such a

determination and ruling by a trial court would not prevent the appellate court from reviewing the issue. Newsome v. State, 570 So.2d 703,710 (Ala.Crim.App. 1989). The review by an appellate court requires that " in determining the sufficiency of the evidence to sustain a conviction, the reviewing court must accept as true all evidence introduced by the State, accord the State all legitimate inferences therefrom, and consider all evidence in a light most favorable to the prosecution." Ballenger v. State, 720 So.2d. 1033, 1034 (Ala.Crim.App. 1998); (quoting Faircloth v. State, 471 So.2d. 485, 488 (Ala.Crim.App. 1984), aff'd, 471 So.2d. 493 (Ala. 1985)). Furthermore, if an appellate court does discover that there is the existence of conflicting evidence, then it will prevent any appellate review of the evidence or its sufficiency. Metzger v. State, 565 So.2d 291, 292 (Ala.Crim.App. 1990).

The Appellant understands that it is necessary to protect the record for review, and that to protect this record for review the defendant must file a motion for new trial or a motion for judgment of acquittal. Rule 20.2(a), Ala.R.Crim.P. In the case at bar, the Appellant filed a motion for judgment of acquittal. (R 73).

Therefore, the question to be answered is whether a jury might find that the evidence excluded every reasonable hypothesis except that of guilt? Cumbo v. State, 368 So.2d 871 (Ala.Crim.App. 1978), cert denied, 368 So.2d 877 (Ala. 1979). The Appellant contends that a jury could not reasonably do so here, and that the Appellant's case should be reversed and remanded with the appropriate instructions.

ISSUE THREE

**WHETHER TRIAL COUNSEL'S ASSISTANCE AT TRIAL WAS  
INEFFECTIVE? YES**

Appellant, Ralph Lingo, contends that he was denied the effective assistance of counsel at trial. Mr. Lingo argues that during his trial he made an attempt to fire his attorney because of her failure to investigate his case and for her failure to cross examine the State's witnesses as to pertinent information that might have led to his acquittal. (R 31-32).

The appellant filed a motion for new trial on November 10, 2004 stating the reasons that he should be entitled to a new trial. (C 195-201). Mr. Lingo states in his motion that his attorney had misled him and would lie to him about his case, and he states that his attorney would not cross-examine any of the witnesses as to certain areas he believed to be relevant. (C 195-196) Mr. Lingo also says that his attorney had not informed him that none of witnesses would be called at trial; he also claims that his attorney would not question the officers about him being arrested outside of the county that issued the arrest warrant. Mr. Lingo also contends that he asked his attorney



to bring up the issue of his home being searched without a valid search warrant and she refused to do so. (C 196)

Mr. Lingo also states in his motion that his attorney did not question the jury properly because some of the jurors were co-workers of the victim. (C 197). Mr. Lingo further argues that he had asked his attorney several times to withdraw from his case because she said not to call him and to only write her once a month, and that she would only get prepared for trial right before trial. Also, he brings up the fact that his attorney would not question the victim about her common law marriage to Mr. Lingo, which would have brought her testimony under the spousal privilege not to testify against your spouse. (C 198-199). Thus, for the reasons set out above the appellant believes that his trial counsel denied him the right to effective assistance that was necessary for him to get a fair trial.

The appellant argues that even though his motion for new trial was not extremely specific and was not supported with affidavits he is not precluded from review by this court under Ex parte Jefferson, 749 So.2d 406 (Ala. 1999). "Normally, a defendant's motion for a new trial requires verification in the form of an affidavit. Jones v. State,

727 So.2d 866, 867 (Ala.Crim.App. 1998) (citing Hill v. State, 675 So2d. 484 (Ala.Crim.App. 1995)).

In Similton v. State, 672 So.2d 1363 (Ala.Crim.App. 1995) the Court of Criminal Appeals said that an unverified motion were only bare allegations and could not be considered as evidence of the facts alleged. However, in Hill v. State, 675 So2d. 484 (Ala.Crim.App. 1995), "the Court of Criminal Appeals changed their holding from Similton and reversed the trial court's denial of a motion for new trial and remanded the case to the trial court because the allegations of ineffective assistance of counsel were supported by facts contained in the record on appeal. Supporting affidavits or other evidence is not necessary where the grounds relied on in the motion for new trial are shown by the record." Hill v. State, supra.

To analogize with Hill, in the present case the allegations relied on by Mr. Lingo can be supported by the actual trial transcript. The record reflects that during the trial the allegations that Mr. Lingo asserts can be proven very easily simply by reading the transcript and noticing that the counsel at trial did not in fact do what a reasonable attorney would have done. Furthermore, Mr.

Lingo argues that, "If the record on appeal shows that the trial counsel's assistance at trial was so deficient as to fall below an objective standard of reasonableness, as the record here reflects, there is no need for a more specific motion." Therefore, in the present case Mr. Lingo's motion for new trial that raises allegations of ineffective assistance of counsel was sufficient to preserve the issue for appeal.

The appellant is aware that in order to raise the issue of ineffective assistance of counsel on appeal that he must first present the issue to the trial court in a motion for new trial. Montgomery v. State, 781 So.2d 1007, 1010 (Ala.Crim.App. 2000). Mr. Lingo did file a motion for new trial on November 5, 2004. (C 195) He filed the motion before his sentence date and it was ruled on before his sentence date, which in effect deems the motion to have been filed on the date of sentencing, and denied by operation of law. . Rule 24.1(a), Ala.R.Crim.P.

In order for an appellant to prevail on a claim for ineffective assistance of counsel they must satisfy the test set by the Supreme Court which is:

1. An appellant must show that his counsel's performance at trial was deficient and,
  2. That he was prejudiced by the deficient performance.
- Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984).

In order to prove the first element of the test the appellant must prove that his counsel made errors that were so egregious that he was denied the representation that is guaranteed him under the Sixth Amendment. The appellant must also show that he was prejudiced by the deficient performance by proving that his counsel made errors that were so serious that he was deprived of a fair trial. *Id* at 687. In proving the elements of the test the appellant has the burden of proof and must satisfy the test with by a preponderance of the evidence. Wilson v. State, 644 So.2d 1326, 1328 (Ala.Crim.App. 1994). However, there is a presumption that trial counsel did provide the appellant with effective assistance at trial. Halford v. State, 629 So.2d 6 (Ala.Crim.App. 1992).

In a case such as this the performance element is an objective standard that is, "whether counsel's

assistance, judged under prevailing professional norms was reasonable considering the circumstances." Daniels v. State, 650 So.2d 544, 552 (Ala.Crim.App. 1994) (quoting Strickland, supra). " A court in deciding an actual ineffectiveness claim must judge the reasonableness of counsel's challenged conduct on the facts of the particular case, viewed as of the time of counsel's conduct." Strickland, supra. The prejudice component requires that there be proof that counsel's errors at trial were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable. Strickland, supra.

When asserting an ineffective of counsel claim the Defendant has to prove that there was a reasonable probability that, but for counsel's unprofessional errors, the result of the case would have been different. Even a reasonable probability is sufficient to undermine confidence in the outcome of the case. *Id* at 696.

In the case at bar Mr. Lingo argues that his trial counsel's performance at trial was deficient. Mr. Lingo points to the record and alleges in his motion for new trial that his attorney did not call any witnesses on his

behalf like he requested, his attorney would not cross examine any of the witnesses on issues that would have helped his case significantly. (R 195-201) Specifically, he asserts that his attorney would not question the officer that arrested him on the grounds of the validity of the arrest warrant whereby he was arrested in Henry County with a Houston County warrant without said warrant being domesticated. (R 31-32). Mr. Lingo believes that his Constitutional right to have the effective assistance of counsel has been violated. Mr. Lingo further contends that his attorney failed to question the victim as to her common law marriage with the Appellant, which could preclude her testimony against Mr. Lingo. (C 199).

Mr. Lingo also states that he did not have any time to talk with his attorney, that she did not want him to call her, and that he had requested that she withdraw from his case and the court would not allow it. (R 31-32).

Furthermore, Mr. Lingo asserts that because of the above mentioned errors performed by his attorney he was prejudiced by the deficient acts of his trial counsel, because if counsel had of investigated his case more

professionally then the outcome of his case would have been different.

Therefore, the fact that Mr. Lingo's counsel at trial failed to perform many of the ministerial acts performed by attorney's at trial, he was rendered helpless and without the effective assistance of counsel. The record in this case shows that Mr. Lingo requested his attorney to perform a number of acts pertaining to his case in which the trial counsel simply had refused to perform. The mere fact that the trial counsel was requested to perform these functions and the record supporting the fact that they were not done proves that the trial counsel's performance was deficient and that because of this deficiency Mr. Lingo was prejudiced by an unjust result at his trial.

Mr. Lingo prays this Honorable Court will grant him relief by reversing and remanding this matter to the Trial Court with instructions to enter a judgment of acquittal, or in the alternative, reverse the trial court and render a verdict of not guilty.

### CONCLUSION

Mr. Lingo submits to this Honorable Court that the Trial Court erred in refusing to give a jury instruction as to the offenses of Criminal Coercion and Tampering with a Witness, which should have been lesser-included offenses of Intimidating a Witness.

Mr. Lingo further contends that his motion for judgment of acquittal should have been granted due to the fact that the State failed to meet their burden in proving a prima facie case against him. The State did not produce any evidence or testimony at trial that would prove that the conduct of Mr. Lingo was commensurate with the conduct required to be guilty of the offense of Intimidating a Witness.

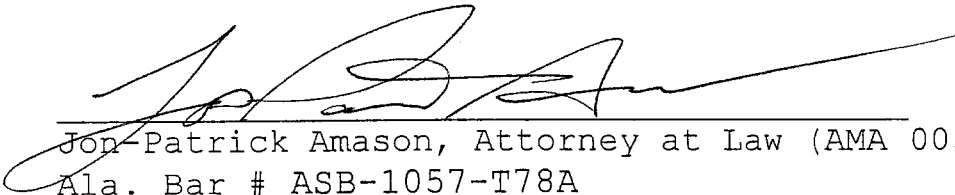
Mr. Lingo also asserts that he was prejudiced by his attorney and if he had been afforded the effective assistance of counsel at trial then the result of his case would have been different. Mr. Lingo states several times in the record that he was unhappy with the assistance that he was being given and that his attorney would not proceed



with his case in the manner that a reasonable attorney would have.

Wherefore, Mr. Lingo prays this Honorable Court will grant him relief by reversing and remanding this matter to the Trial Court with instructions to enter a judgment of acquittal, or in the alternative, reverse the trial court and render a verdict of not guilty.

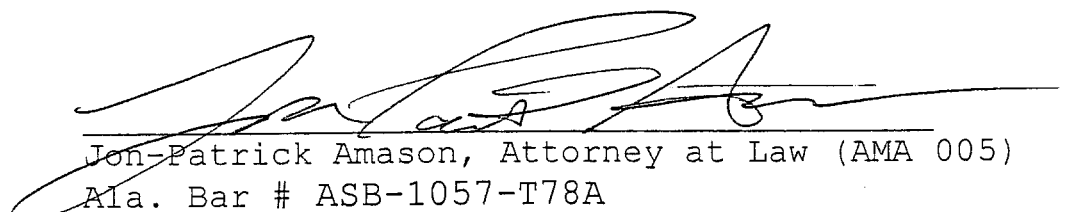
Respectfully submitted this the 14<sup>th</sup> day of April, 2005.



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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the above and foregoing Brief of Appellant upon the Attorney General for the State of Alabama, Alabama State House, 11 South Union Street, Montgomery, Alabama 36130, by placing a copy of same in the U. S. Mail, postage prepaid and properly addressed, on this the 14<sup>th</sup> day of April, 2005.



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C 42	Motion to Return Illegally Seized Property denied.
C 192	Motion to Suppress denied.
R 30	Defendant's oral Motion denied.
R 33	Defendant's Motion to admit Documents denied.
R 67	Defense objection to admission of Defendant's statement overruled.
R 82	Motion for Judgment of Acquittal denied.
R 83	Defense Objection to State's Closing Argument overruled.
R 95	Defense Objection to jury instructions not being given on criminal coercion and tampering with a witness overruled.
C 193	Motion for Appointment of New Counsel denied.
C 193	Motion for Judgment of Acquittal denied.
C 203	Motion for Indictment to be dismissed denied.
C 203	Motion for New Trial denied.

No. 04-0602

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*In the COURT of CRIMINAL APPEALS  
of ALABAMA*

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◆

RALPH WILSON LINGO,  
Appellant,  
v.  
STATE OF ALABAMA,  
Appellee.

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◆

*On Appeal From the Circuit Court  
of Houston County  
(CC-03-599)*

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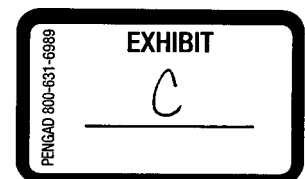
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May 13, 2005



**STATEMENT REGARDING ORAL ARGUMENT**

The State does not request oral argument. "The facts and legal arguments are adequately presented in the briefs and record and the decisional process would not be significantly aided by oral argument." Ala. R. App. P. 34(a)(3).

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### **STATEMENT OF THE CASE**

This is an appeal by Ralph Lingo from a judgment of conviction for intimidating a witness and a twenty year sentence, entered in the Houston County Circuit Court. The Honorable Jerry White was the presiding judge.

On September 5, 2003, the Houston County Grand Jury returned an indictment against Lingo, charging him with intimidating a witness. (C. 7-8) While represented by counsel, on October 15, 2003, Lingo filed a "Plea of not Guilty and Waiver of Arraignment". (C. 1, 10)

On November 10, 2003, Lingo's attorney filed a "Motion to Withdraw", stating that "a conflict has arisen between the defendant and undersigned counsel". (C. 1, 13) Judge White granted the motion on December 8, 2003. (C. 1, 14) On December 17, 2003, Judge White appointed Lingo new counsel. (C. 1, 18)

Due to the numerous motions and requests being filed by Lingo pro se, on January 20, 2004, Judge White entered an order informing Lingo that the court would not be accepting any further motions prepared by Lingo. (C. 2, 33) On April 14, 2004, Lingo sent a letter to Judge White asking

the court to appoint Attorney Matthew Lamere to represent him in this case. (C. 34-35)

On July 15, 2004, Lingo filed a motion requesting that the court permit him to act as co-counsel to his appointed counsel.<sup>1</sup> (C. 49-50) Lingo, through counsel, filed a motion to suppress any statements made by Lingo to law enforcement officers, and a motion in limine. (C. 188-189) (C. 188-189, 190-191) On November 3, 2004, the court granted the motion in limine "as to any past convictions or pending charges not relevant to this indictment unless defendant chooses to testify", but denied the motion to suppress Lingo's statements. (C. 192) On the same day, the court denied Lingo's request for appointment of new counsel, and judgment of acquittal. (C. 193)

On November 10, 2004, Lingo filed pro se a motion for a new trial and a request for the dismissal of his indictment. (C. 195-201) The court denied both motions on November 18, 2004. (C. 203)

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<sup>1</sup> Before and after requesting to be permitted to act as co-counsel in his case, Lingo filed numerous letter, motions, and requests for documents. (C. 36, 37, 40-41, 44, 45-46, 47, 48, 51-52, 55, 56-58, 60, 61, 63-64, 65-71, 78, 83-155, 164, 177-187) Most of these documents do not appear to pertain to this case.

On November 3, 2004, Lingo's trial began in the Houston County Circuit Court. (R. 1) Lingo appeared in court with counsel, a jury was struck, empaneled, and administered an oath by the clerk. (R. 21) Evidence was presented by the State and after the State rested its case, Lingo, through counsel, moved for judgment of acquittal arguing that the State failed to prove the elements of the crime of intimidating a witness. (R. 73) After giving the attorneys an opportunity to argue their respective positions relative to the motion for acquittal, Judge White denied the motion. (R. 82) The defense presented no witnesses. (R. 82)

After the attorneys gave their closing argument the judge gave his oral charge to the jury. At the conclusion of the oral charge, defense counsel made the following statement: "I just wanted to put it on the record that I would object to jury instructions not being given on criminal coercion and tampering with a witness for appeal purposes". (R. 95) The trial resumed on November 4, 2004, and after deliberating on the evidence, the jury returned a verdict of guilty to the charge of intimidating a witness as alleged in the indictment. (C. 194) On December 9,

2004, Lingo again appeared in court with counsel and the judge held a sentence hearing. (R. 105-118) The State, having previously given notice to Lingo of its intent to offer evidence of one prior conviction for receiving stolen property in the second degree for purposes of the Habitual Felony Offender Act, introduced certified evidence of Lingo's prior conviction. (C. 204; R. 106) At this time, the judge sentenced Lingo to twenty years' imprisonment and imposed a ten thousand dollar fine, plus costs, and a one-thousand dollar victim compensation assessment. (R. 117) Lingo gave oral notice of appeal. (R. 117) This appeal followed.

#### **ISSUES PRESENTED FOR REVIEW**

1. Did Lingo fail to preserve for appellate review his claim that the trial court erred when it failed to instruct the jury on criminal coercion and tampering with a witness when he failed to properly object to the court's failure to give the instructions?

2. Did the State present sufficient evidence to convict Lingo of intimidating a witness?

3. Did Lingo fail to establish a meritorious claim of ineffective assistance of counsel based on the standard of Strickland v. Washington?

### **STATEMENT OF THE FACTS**

On April 24, 2003, Debra Tice Blackstone, Lingo's ex-wife, signed a warrant against Lingo in the Dothan Municipal Court for making harassing communications. (R. 26-27, 33-34) A week later, specifically on May 2, 2003, Blackstone received an envelope from Lingo (State's exhibit 1) that was hand-delivered by a black man to Blackstone's home in Dothan. Inside the envelope was a letter and some nude photographs of Blackstone that Lingo had taken. Blackstone immediately called the Dothan Police Department and a patrol officer came to her home and confiscated the package. (R. 27, 35-36, 38-39) The letter (State's exhibit 1) was three pages in length, one page consisted of nude photographs of Blackstone copied onto a sheet of paper and hand-writing, and the other two pages were primarily handwriting. (R. 28-29) Sergeant Tony Luker, with the Dothan Police Department, was assigned to investigate the

case and, after reviewing the letter, signed a warrant for Lingo's arrest for intimidating a witness. (R. 27-28)

At trial, Blackstone testified that she was "overwhelmed", "scared", and "terrified" when she received the letter, and afraid to go to court (although she did go to court and Lingo was convicted on the harassing communications charge). (R. 37) Blackstone also testified that during their relationship, Lingo was physically abusive to her. The abuse began soon after they were married and once, after she was beaten so badly that she had to go to the hospital, she signed a warrant for Lingo's arrest. (R. 43) Blackstone further testified that, in the past, Lingo had made threats to burn down her home and kill her, and she recalled him specifically stating that the next person that puts him away will die. (R. 45)

Alicia Roberts, Lingo's former employee, wrote the letter to Blackstone while at Lingo's trailer in Newville. Lingo told her what to write. She also copied the photographs for Lingo. (R. 31, 46-48, 50)

On October 13, 2004, Ed Sasser, a corrections officer with the Alabama Department of Corrections, went to the Bullock County Correctional Facility to investigate a

complaint given to him by the warden. The complaint was against Lingo who was an inmate at the facility at the time. (R. 53-56, 58) Before asking Lingo any questions, he advised Lingo of his Miranda rights; afterward, Lingo voluntarily signed a waiver (State's exhibit 2) and gave a statement (State's exhibit 3). (R. 56-58) During the interview, Lingo denied threatening to burn down Blackstone's house; and, when asked about the pending charge of intimidating a witness and sending naked photographs to Blackstone, he merely indicated that he had a case pending. (R. 68-69)

The State rested after presenting the foregoing evidence, and the defense moved for a judgment of acquittal. (R. 72-73) Defense counsel specifically argued that the State had failed to prove each element of the crime of intimidating a witness, suggesting that Lingo was merely trying to reconcile with Blackstone. (R. 73) After hearing the attorneys' argument, Judge White denied the motion for judgment of acquittal. (R. 82) The defense rested after counsel informed the court that there would be no witnesses for the defense. (R. 82)

### STANDARD OF REVIEW

1. This Court will not consider an argument raised for the first time on appeal; its review is limited to evidence and arguments considered by the trial court." Eastland v. State, 677 So. 2d 1275, 1276 (Ala. Crim. App. 1996), quoting Abbott v. Hurst, 643 So. 2d 589 (Ala.1994). "An issue raised for the first time on appeal is not subject to appellate review because it has not been properly preserved and presented." Pate v. State, 601 So. 2d 210, 213 (Ala. Crim. App. 1992).

2. The appellate court's role in reviewing the sufficiency of the evidence in criminal cases is as follows:

In determining the sufficiency of the evidence to sustain a conviction, a reviewing court must accept as true all evidence introduced by the State, accord the State all legitimate inferences therefrom, and consider all evidence in a light most favorable to the prosecution. Faircloth v. State, 471 So.2d 485 (Ala.Cr.App.1984), aff'd, 471 So.2d 493 (Ala. 1985). Powe v. State, 597 So.2d 721, 724 (Ala.1991). It is not the function of this Court to decide whether the evidence is believable beyond a reasonable doubt, Pennington v. State, 421 So.2d 1361 (Ala.Cr.App.1982); rather, the function of this Court is to determine whether there is legal evidence from which a rational finder of fact could have, by fair inference, found the defendant guilty beyond a reasonable doubt. Davis v. State, 598 So.2d 1054 (Ala.Cr.App.1992). Thus, '[t]he role of appellate courts is not to say what the facts are. [Their role]



is to judge whether the evidence is legally sufficient to allow submission of an issue for decision [by] the jury.' Ex parte Bankston, 358 So.2d 1040, 1042 (Ala.1978).

Woods v. State, 845 So. 2d 843, 845-846 (Ala. Crim. App. 2002), quoting Ex parte Woodall, 730 So. 2d 652, 658 (Ala. 1998).

3. When reviewing claims of ineffective assistance of counsel, the courts must determine if counsel's performance was deficient and, if so, whether the appellant suffered any prejudice from the deficient performance. Strickland v. Washington, 466 U.S. 668 (1984). The appellate court indulges a strong presumption that counsel's conduct was appropriate and reasonable. Brown v. State, 807 So. 2d 1, 12 (Ala. Crim. App. 1999), *cert. quashed*, 807 So. 2d 17 (Ala. 2001).

#### **SUMMARY OF THE ARGUMENT**

Lingo failed to preserve on appeal his issue that the trial court erred in failing to instruct the jury on criminal coercion and tampering with a witness, by not specifically objecting to the court's failure to give the instruction.

The State's evidence was sufficient to present the case to the jury on the issue of guilt. Lingo was charged with intimidating a witness, and the evidence showed that soon after the victim initiated criminal action against Lingo, he sent the victim a threatening letter, suggesting that he would cause certain things to happen to her unless the two of them could work things out on their own. He enclosed nude photographs of the victim, stating that he would post them around the city and disseminate them to her family unless she allowed them to resolve this matter themselves. Based on this evidence, a rational jury could find Lingo guilty of intimidating a witness.

Lingo failed to present a meritorious claim of ineffective assistance of counsel by showing that his counsel's performance was deficient and that he was prejudiced by this deficient performance. On appeal, as in his unverified motion for new trial, Lingo's bare allegations are insufficient to warrant any relief.

### ARGUMENT

**I. Lingo Failed to Preserve for Appellate Review his Claim that the Trial Court Erred When It Failed to Instruct the Jury on Criminal Coercion and Tampering with a Witness When he Failed to Properly Object to the Court's Failure to Give the Instructions by Specifically Stating Grounds for his Objection.**

Lingo states that "the trial court erred in refusing to instruct the jury on the elements of the crime of Criminal Coercion and Tampering with a Witness, arguing that they are lesser included offenses of intimidating a Witness". Lingo's brief p. 16.

The record does not show where the defense provided the court with any written requested instructions; nor is there any indication in the record that Lingo orally requested the instructions. Lingo implies that he orally requested the instructions, stating that "the trial court noted that the defense counsel had argued for lesser-included offenses". Lingo's brief p. 16. He has not, however, pointed to any place in the record where he clearly asked the judge to instruct the jury on criminal coercion and tampering with a witness. In fact, during the discussion referred to by Lingo, on the defense's motion for judgment of acquittal, what the judge actually stated was: "I know

in her opening argument she was talking about lesser included offenses". The judge then solicited discussion from the attorneys concerning the difference between tampering with a witness and criminal coercion. (R. 80) Even at this point, counsel did not request that the jury be given these instructions. (R. 80-82) This discussion was insufficient to preserve the issue however. See Burger v. State, CR 03-0236, 2005 WL 435117, at \*3 (Ala. Crim. App. Feb 25, 2005) ("They discussed this charge at the charge conference, but they did not specifically object to the court's failure to give it or state a particular ground.")

Finally, at the conclusion of the court's oral charge, defense counsel objected to the court's failure to instruct the jury on the offenses; however, the objection was insufficient to preserve for appellate review the court's failure to give these instructions. Specifically, counsel stated:

"I just wanted to put it on the record that I would object to jury instructions not being given on criminal coercion and tampering with a witness for appeal purposes". (R. 95)

Rule 21.3 of the Alabama Rules of Criminal Procedure provides as follows:

No party may assign as error the court's giving or failing to give a written instruction, or the giving of an erroneous, misleading, incomplete, or otherwise improper oral charge, unless he objects thereto before the jury retires to consider its verdict, stating the matter to which he objects and the grounds of his objection. Opportunity shall be given to make the objection out of the hearing of the jury.

Ala. R. Crim. P. 21.3. Therefore, in order to preserve for appellate review a trial court's failure to give a jury instruction, the party requesting the instruction must object to the court's refusal to give the instruction by stating with particularity the grounds for the objection. See Bullock v. State, 697 So. 2d 66, 66 (Ala. Crim. App. 1997); see also Burger v. State, 2005 WL 435117, at \*3.

Because Lingo failed to properly objection to the court's failure to give jury instructions on criminal coercion and tampering with a witness, stating specifically the grounds for his objection, this claim is not preserved for review by this Court.

**II. The State Presented Sufficient Evidence to Show that Lingo's Sent a Threatening Letter to the Victim with the Intent of Intimidating her into Abandoning Criminal Action Which she Initiated Against him.**

Lingo contends that the evidence was insufficient to sustain his conviction. He specifically argues that the State failed to prove the three essential elements of the crime of intimidating a witness.

Section 13A-10-123 of the Code of Alabama provides:

"(a) A person commits the crime of **intimidating a witness** if he attempts, by use of a threat directed to a witness or a person he believes will be called as a witness in any official proceedings, to:

(1) Corruptly influence the testimony of that person;

(2) Induce that person to avoid legal process summoning him to testify; or

(3) Induce that person to absent himself from an official proceeding to which he has been legally summoned.

"In determining the sufficiency of the evidence to sustain a conviction, [this Court] must accept as true all evidence introduced by the State, accord the State all

legitimate inferences therefrom, and consider all evidence in a light most favorable to the prosecution." Woods v. State, 845 So. 2d 843, 845-846 (Ala. Crim. App. 2002), quoting Ex parte Woodall, 730 So. 2d 652, 658 (Ala. 1998). This Court's function, therefore, is to determine whether the evidence is legally sufficient to allow submission of an issue for a decision by the jury. Id.

According to the evidence presented at trial, on April 24, 2003, Debra Tice Blackstone, Lingo's ex-wife, signed a warrant against Lingo for harassing communications. (R. 26-27, 33-34) A week later, specifically on May 2, 2003, Blackstone received an envelope from Lingo (State's exhibit 1) hand-delivered to her home in Dothan by a black man. Inside the envelope was a letter and some nude photographs of Blackstone that Lingo had taken. Blackstone immediately called the Dothan Police Department, and a patrol officer came to her home and confiscated the package. (R. 27, 35-36, 38-39) The letter (State's exhibit 1) was three pages in length, one page consisted of copied nude photographs of Blackstone and hand-writing, and the other two pages were primarily handwriting. (R. 28-29) Blackstone testified that after receiving the letter she felt "overwhelmed",

"scared", and "terrified", and afraid to go to court (although she did go to court and Lingo was convicted on the harassing communications charge). (R. 37)

In the letter, Lingo makes statements such as: "you drop your phony warrant or...", and "if you don't want to go down you better back off from me", and "you want to go to the law, fine we will also tell the law a lot of shit too". (C. 224-226) The general tone of the letter is threatening. Lingo is threatening the victim that, unless she allows them to settle the matter themselves as opposed to allowing it to be settled by the law, all sorts of "bad" things will happen to her, including posting nude photographs of the victim around Dothan and sending copies to her family(a sample of which he sent to the victim to show that he means what he is saying).

The fact that this threatening letter was sent to Blackstone a week after she signed a warrant against Lingo, and the charge was still pending when he sent the letter, a jury could rationally find Lingo guilty of intimidating a witness. Therefore, the evidence was sufficient for the court to submit the case to the jury. See King v. State, 730 So. 2d 261, 263 (Ala. Crim. App. 1998).



**III. Lingo Failed to Establish a Meritorious Claim of Ineffective Assistance of Counsel Because he Failed to Show that his Counsel's Performance was Deficient or that he was Prejudiced by this Deficient Performance.**

Lingo contends that he was denied effective assistance of counsel at trial, based on his counsel's conduct before and during his trial. On appeal, Lingo makes general statements, the same as in his pro se motion for new trial, such as, counsel: failed to investigate his case, cross examine the State's witnesses concerning "pertinent information", "misled him and would lie to him about his case", "had not informed him that none of witnesses would be called at trial", "would not question the officers about him being arrested outside of the county that issued the arrest warrant", refused to "bring up the issue of his home being searched without a valid search warrant", did not "question the jury properly because some of the jurors were co-workers of the victim", etc. Lingo's brief pp. 30-31, 35-36) While Lingo appears able to cite instances where his counsel allegedly failed to perform or performed inadequately, he has failed to show that his counsel's performance was deficient or that he was prejudiced.

Therefore, he has failed to establish a meritorious claim of ineffective assistance of counsel.

To establish a meritorious claim of ineffective assistance of counsel, a convicted defendant must show that his counsel failed to perform reasonably under the circumstances; that his performance was deficient. Also, he must show that this deficient performance prejudiced his case. Strickland v. Washington, 466 U.S. 668, 693 (1984); Ex parte Baldwin, 456 So. 2d 129, 134 (Ala. 1984). Both parts of this standard must be met. Williams v. State, 480 So. 2d 1265, 1267 (Ala. Crim. App. 1985).

"In determining whether a defendant has established his burden of showing that his counsel was ineffective, [the court] [is] not required to address both considerations of the Strickland v. Washington test if the defendant makes an insufficient showing on one of the prongs." Strickland, at 697. Lingo has failed to show that his counsel's performance was deficient, by identifying exactly what his counsel should have or should not have done. In particular, he does not state how his counsel was deficient in his investigation of his case, or which State's witnesses she failed to cross examine "as to

pertinent information" and what this information consists of, or how his counsel "misled him" or what aspects of the case did she "lie to him about". And, more importantly, why counsel's conduct in the particular instances was deficient performance by an attorney.

Lingo notes that his claim of ineffective assistance of counsel was first presented in his pro se motion for new trial. Aside from the fact that it too contained bare and sometimes vague allegations, the motion for new trial was unverified and unsupported by affidavit or other evidence; therefore, its assertions could not be considered evidence or proof of the facts alleged. See Similton v. State, 672 So. 2d 1363, 1365 (Ala. Crim. App. 1995). Furthermore, Lingo's bare assertions are not supported by facts in the record. See Finney v. State, 860 So. 2d 367 (Ala. Crim. App. 2002).

Clearly, there is no basis for this Court to conclude that Lingo's counsel was ineffective because Lingo has failed to present any facts to support his contention. Accordingly, Lingo's claim of ineffective assistance of counsel was properly denied and the denial is due to be upheld on appeal.

**CONCLUSION**

Based on the foregoing, the judgment of conviction entered in the Houston County Circuit Court is due to be affirmed.

Respectfully submitted,

Troy King  
*Attorney General*  
By-

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Robin Blevins Scales  
*Assistant Attorney General*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 13th day of May, 2005, I served a copy of the foregoing on the attorney for Lingo by placing the same in the United States Mail, first class, postage prepaid and addressed as follows:

Jon-Patrick Amason Esq.  
401 North Foster Street  
Dothan, AL 36303

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Robin Blevins Scales  
*Assistant Attorney General*

ADDRESS OF COUNSEL:

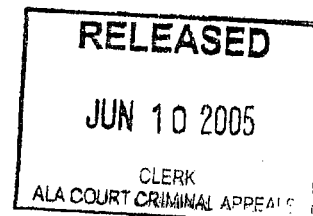
Office of the Attorney General  
Criminal Appeals Division  
11 South Union Street  
Montgomery, AL 36130  
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202290/75586-001

Notice: This unpublished memorandum should not be cited as precedent. See Rule 54, Ala.R.App.P. Rule 54(d), states, in part, that this memorandum "shall have no precedential value and shall not be cited in arguments or briefs and shall not be used by any court within this state, except for the purpose of establishing the application of the doctrine of law of the case, res judicata, collateral estoppel, double jeopardy, or procedural bar."

## Court of Criminal Appeals

State of Alabama  
Judicial Building, 300 Dexter Avenue  
P. O. Box 301555  
Montgomery, AL 36130-1555



H.W. "BUCKY" McMILLAN  
Presiding Judge  
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### MEMORANDUM

CR-04-0602

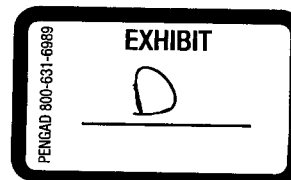
Houston Circuit Court CC-03-599

Ralph Wilson Lingo v. State of Alabama

Baschab, Judge.

The appellant was convicted of intimidating a witness, a violation of §13A-10-123(a), Ala. Code 1975. The trial court sentenced him, as a habitual offender, to serve a term of twenty years in prison. See §13A-5-9(a)(1), Ala. Code 1975. The appellant filed motions for a judgment of acquittal and for a new trial, which the trial court summarily denied. This appeal followed.

Debra Tice Blackstone, the victim, testified that the appellant is her ex-husband; that they were married in January 1989 and divorced in January 1997; that the appellant could not read and write very well; that, on April 24, 2003, she signed a warrant against the appellant in the Dothan Municipal



Court for harassing communications based on a telephone call; that she also got a protection from abuse order against the appellant; that, about one week later, she received an unsigned letter, which included copies of photographs of her naked and written threats, from an unidentified delivery man at her home; that the appellant was the only person who had access to the photographs; and that she was overwhelmed, scared, terrified, and afraid to go to court, even though she did later go to court. She also testified that the appellant

"has threatened to burn my house down. He has tried to hire somebody to kill me. He has made the comment to me that the next person that puts him away will die."

(R. 45.)

The State introduced the photographs and the letter into evidence. The letter included the following:

"You brought this on your own self. No one has seen these. You tricked me and you did something very, very wrong. I still have the phone tape. I can ruin you real badly with fraud counts against you with the internal revenue. You love blacks, and cops but you don't think more that 3,000 of these will be placed all over Dothan. Every stop sign, light poles, just think again. Copies are made. You better see me or I will have to start defending myself.

"I do not want any trouble with you. You know the law is on me real bad, trying to get anything on me. You know all about it, but I ain't guilty. I was framed and set up by Sue. I didn't know anything about it until it was all over with. I told the internal Revenue a little about you, but not enough to get you in any trouble. I would never do that unless I was forced to.

"4 out of 20 pictures

"You know I can hurt you by a lot of people you

ran off from my [business], that you have cussed out. I know at least three of those people want to sign warrants on you right now. I know why you did all of this is because of you lover, so here's the way it will go. You can keep your black lovers, your cop lovers. I haven't done anything but help you and giving you money. Yes I was trying to fight to keep you, and to make sure you had plenty of money every week. That was what I wanted to do to keep you, to make sure you had your medication, money, and whatever your kid needed. I will never call you again. I will never contact you again. You drop your phony warrant or you will be sued at the right time and be arrested with [warrants] against you. I will push the internal revenue to step in to investigate you. [A]lso GE to investigate you also. I will do whatever it takes to ruin you, destroy you, your name. You have lied on me, and tricked me with a phone call, and there's some stuff on you I won't mention. If you don't want to go down you better back off from me. I will be going to have a meeting with my investigators and I will put them on the case. I kept you out of these trials like you asked me, but you [will] be in 3 in the near future, under oath. These phone tapes will prove you deal with a lot of customers. You want me to nail you but you remember the fox. You know what this means. I am leaving and going to the beach this weekend. I will have my cell phone with me. I don't want to talk or see anyone but you face to face, to talk out our differences. You know my number. I am very depressed. I have cried a million tears over you.

"I am not threatening you in no way. I am making you a promise. You have 24 hours to see me face to face. And we will start to work to defending myself against accusations which aren't true. Debra this will be up to you. You know my cell number. If you want to meet me to work this thing out, then I'd be more than willing [to] show you I'm not joking with you. Three of your family members will get a copy of a videotape and a copy of



these pictures along with copies of phone tapes, this weekend. I have not got any of this in my possession. All it would take is a phone call and it will be delivered. You have 24 hours for these to start [coming] out on you. You want to go to the law, fine. We will also tell the law a lot of shit too, and it won't stop there. I know you have these judges on your side, but you just don't know what I know. I don't want any problems out of you. It's your money and your life. Do you want it destroyed or a person to person talk to work all of this out. I might not word this letter right, but one of your friends knows how to contact me. This will be up to you. I will have to do what I have to do. Thank you very much. We can work this out and go our [separate] ways.

"Take this the way you want to take this. It's your choice.

"Thank you.

"1-4 pages - you have copies of your pictures. Do what you want to do."

(C.R. 224-26.)

Alicia Roberts testified that she worked for the appellant; that she wrote the above-referenced letter, using the appellant's words, at the appellant's request; and that she helped the appellant copy the photographs.

Finally, the appellant made a statement to Ed Sasser, an investigator for the Alabama Department of Corrections, in which he admitted that he had sent someone to the victim's house with a photograph of her naked. He contended that the person did not know what was in the package, but that the victim did.

I.

The appellant argues that the trial court erroneously

refused to instruct the jury on criminal coercion<sup>1</sup> and tampering with a witness.<sup>2</sup>

"No party may assign as error the court's ... failing to give [an] instruction ... unless the party objects thereto before the jury retires to consider its verdict, stating the matter to which he or she objects and the grounds of the objection."

Rule 21.3, Ala. R. Crim. P. After the trial court's oral charge, the appellant made a general objection to the fact that the trial court had not instructed the jury on criminal coercion and tampering with a witness, but he did not state any grounds in support of the objection. Therefore, he did not properly preserve this argument for our review. See Rule

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<sup>1</sup>Section 13A-6-25(a), Ala. Code 1975, provides, in pertinent part:

"A person commits the crime of criminal coercion if, without legal authority, he threatens to confine, restrain or to cause physical injury to the threatened person or another, or to damage the property or reputation of the threatened person or another with intent thereby to induce the threatened person or another against his will to do an unlawful act or refrain from doing a lawful act."

<sup>2</sup>Section 13A-10-124, Ala. Code 1975, provides, in pertinent part:

"(a) A person commits the crime of tampering with a witness if he attempts to induce a witness or a person he believes will be called as a witness in any official proceeding to:

"(1) Testify falsely or unlawfully withhold testimony; or

"(2) Absent himself from any official proceeding to which he has been legally summoned."

21.3, Ala. R. Crim. P.; Bullock v. State, 697 So. 2d 66 (Ala. Crim. App. 1997).

Moreover, in response to the appellant's objection, the trial court stated:

"I just don't believe that -- a lesser included offense is an offense that is lesser -- less than all of the other -- of the main charge as I understand it of the law of Alabama. And the way I see it under the testimony that was given, and the testimony was pretty much undisputed, that it -- that this has got to be either intimidating a witness or nothing. It's one or nothing is the way I see it. As a matter of fact, I think if I gave a charge on those offenses as lesser included offenses and he were convicted on one of them, that it would be reversible error."

(R. 95-96.)

"No error occurs in not giving a charge on a lesser included offense when there is no reasonable theory to support the lesser offense. See Dill. "A trial judge may refuse to charge on a lesser included offense when it is clear to the judicial mind that there is no evidence to support the jury's being charged on the lesser included offense." Dill, 600 So. 2d at 360, quoting Gurganus v. State, 520 So. 2d 170, 174 (Ala. Cr. App. 1987)."

Williams v. State, 601 So. 2d 1062, 1075 (Ala. Crim. App. 1991), aff'd, 662 So. 2d 929 (Ala. 1992) (table).

The record supports the trial court's finding that jury instructions on criminal coercion and tampering with a witness were not warranted. Under the facts of this case, the appellant was either guilty of intimidating a witness or not guilty of anything. Therefore, the appellant's argument is without merit.

II. .

The appellant also argues that the State did not present sufficient evidence to support his conviction.

"(a) A person commits the crime of intimidating a witness if he attempts, by use of a threat directed to a witness or a person he believes will be called as a witness in any official proceedings, to:

"(1) Corruptly influence the testimony of that person;

"(2) Induce that person to avoid legal process summoning him to testify; or

"(3) Induce that person to absent himself from an official proceeding to which he has been legally summoned.

"(b) 'Threat,' as used in this section, means any threat proscribed by Section 13A-6-25 on criminal coercion."

§13A-10-123, Ala. Code 1975.

"In deciding whether there is sufficient evidence to support the verdict of the jury and the judgment of the trial court, the evidence must be reviewed in the light most favorable to the prosecution. Cumbo v. State, 368 So. 2d 871 (Ala. Cr. App. 1978), cert. denied, 368 So. 2d 877 (Ala. 1979). Conflicting evidence presents a jury question not subject to review on appeal, provided the state's evidence establishes a prima facie case. Gunn v. State, 387 So. 2d 280 (Ala. Cr. App.), cert. denied, 387 So. 2d 283 (Ala. 1980). The trial court's denial of a motion for a judgment of acquittal must be reviewed by determining whether there existed legal evidence before the jury, at the time the motion was made, from which the jury by fair inference could have found the appellant guilty. Thomas v. State, 363 So. 2d 1020 (Ala. Cr. App. 1978). In applying this standard, the

appellate court will determine only if legal evidence was presented from which the jury could have found the defendant guilty beyond a reasonable doubt. Willis v. State, 447 So. 2d 199 (Ala. Cr. App. 1983); Thomas v. State. When the evidence raises questions of fact for the jury and such evidence, if believed, is sufficient to sustain a conviction, the denial of a motion for a judgment of acquittal by the trial court does not constitute error. Young v. State, 283 Ala. 676, 220 So. 2d 843 (1969); Willis v. State."

Breckenridge v. State, 628 So. 2d 1012, 1018 (Ala. Crim. App. 1993).

"In determining the sufficiency of the evidence to sustain the conviction, this Court must accept as true the evidence introduced by the State, accord the State all legitimate inferences therefrom, and consider the evidence in the light most favorable to the prosecution.' Faircloth v. State, 471 So. 2d 485, 489 (Ala. Cr. App. 1984), affirmed, Ex parte Faircloth, [471] So. 2d 493 (Ala. 1985).

"'...

"The role of appellate courts is not to say what the facts are. Our role, ... is to judge whether the evidence is legally sufficient to allow submission of an issue for decision to the jury." Ex parte Bankston, 358 So. 2d 1040, 1042 (Ala. 1978). An appellate court may interfere with the jury's verdict only where it reaches "a clear conclusion that the finding and judgment are wrong." Kelly v. State, 273 Ala. 240, 244, 139 So. 2d 326 (1962). ... A verdict on conflicting evidence is conclusive on appeal. Roberson v. State, 162 Ala. 30, 50 So. 345 (1909). "[W]here there is ample evidence offered by the state to support a verdict, it should not be overturned even though the evidence

offered by the defendant is in sharp conflict therewith and presents a substantial defense." Fuller v. State, 269 Ala. 312, 333, 113 So. 2d 153 (1959), cert. denied, Fuller v. Alabama, 361 U.S. 936, 80 S. Ct. 380, 4 L. Ed. 2d 358 (1960). ' Granger [v. State], 473 So. 2d [1137,] 1139 [(Ala. Crim. App. 1985)].

"... 'Circumstantial evidence alone is enough to support a guilty verdict of the most heinous crime, provided the jury believes beyond a reasonable doubt that the accused is guilty.' White v. State, 294 Ala. 265, 272, 314 So. 2d 857, cert. denied, 423 U.S. 951, 96 S. Ct. 373, 46 L. Ed. 2d 288 (1975). 'Circumstantial evidence is in nowise considered inferior evidence and is entitled to the same weight as direct evidence provided it points to the guilt of the accused.' Cochran v. State, 500 So. 2d 1161, 1177 (Ala. Cr. App. 1984), affirmed in pertinent part, reversed in part on other grounds, Ex parte Cochran, 500 So. 2d 1179 (Ala. 1985)."

White v. State, 546 So. 2d 1014, 1017 (Ala. Crim. App. 1989). Also,

" '[c]ircumstantial evidence is not inferior evidence, and it will be given the same weight as direct evidence, if it, along with the other evidence, is susceptible of a reasonable inference pointing unequivocally to the defendant's guilt. Ward v. State, 557 So. 2d 848 (Ala. Cr. App. 1990). In reviewing a conviction based in whole or in part on circumstantial evidence, the test to be applied is whether the jury might reasonably find that the evidence excluded every reasonable hypothesis except that of guilt; not whether such evidence excludes every reasonable hypothesis but guilt, but whether a jury might reasonably so conclude. Cumbo v. State, 368 So. 2d 871

(Ala. Cr. App. 1978), cert. denied, 368 So. 2d 877 (Ala. 1979).'

"Ward, 610 So. 2d at 1191-92."

Lockhart v. State, 715 So. 2d 895, 899 (Ala. Crim. App. 1997).

Based on the evidence presented, the jury could have reasonably concluded that the appellant was guilty of intimidating a witness. Therefore, the appellant's argument is without merit.

### III.

Finally, the appellant argues that his counsel rendered ineffective assistance during the trial proceedings. In his unverified motion for a new trial, he listed several instances in which he contended that his counsel rendered ineffective assistance. We have reviewed the record and the appellant's ineffective-assistance claims. Although he has made several allegations, he has not satisfied his burden, under Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984), of proving that counsel's performance was deficient and that such allegedly deficient performance prejudiced him. In fact, we note that many of the appellant's claims appear to relate to other judicial proceedings in which he is involved rather than to this proceeding. Furthermore, the record on appeal does not show that his trial counsel's performance was so deficient that it fell below an objective standard of reasonableness. See Ex parte Jefferson, 749 So. 2d 406 (Ala. 1999). Accordingly, the appellant is not entitled to relief on his ineffective-assistance-of-counsel claims.

For the above-stated reasons, we affirm the trial court's judgment.

**AFFIRMED.**

McMillan, P.J., and Cobb, Shaw, and Wise, JJ., concur.



**COURT OF CRIMINAL APPEALS  
STATE OF ALABAMA**

Lane W. Mann  
Clerk  
Sonja McKnight  
Assistant Clerk



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Montgomery, AL 36130-1555  
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June 24, 2005

**CR-04-0602**

Ralph Wilson Lingo v. State of Alabama (Appeal from Houston Circuit Court: CC03-599)

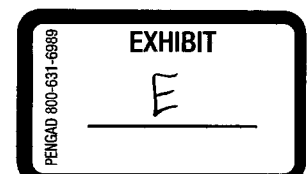
**NOTICE**

You are hereby notified that on June 24, 2005 the following action was taken in the above referenced cause by the Court of Criminal Appeals:

Application for Rehearing Overruled.

**Lane W. Mann, Clerk  
Court of Criminal Appeals**

cc: Hon. Judy Byrd, Circuit Clerk  
Jon-Patrick Amason, Attorney  
Robin Blevins Scales, Asst. Atty. Gen.





Scadw  
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IN THE ALABAMA COURT OF CRIMINAL APPEALS

RALPH WILSON LINGO,  
APPELLANT,

VS.

STATE OF ALABAMA,  
APPELLEE.

ON APPEAL FROM THE CIRCUIT COURT OF  
HOUSTON COUNTY, ALABAMA  
CIRCUIT COURT CASE NO. CC-03-599  
CRIMINAL APPEALS COURT NO. CR-04-0602

---

APPLICATION FOR REHEARING AND SUPPORTING BRIEF

---

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IN THE ALABAMA COURT OF CRIMINAL APPEALS

RALPH WILSON LINGO,  
APPELLANT,

VS.

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APPLICATION FOR REHEARING AND SUPPORTING BRIEF

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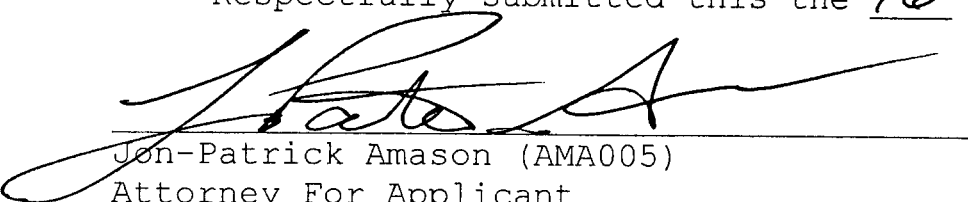
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**APPLICATION FOR REHEARING**

COMES NOW the Applicant, RALPH WILSON LINGO, in the above-styled cause, and makes application to this Honorable Court to rehear the above styled matter. Respectfully, the Applicant moves that upon rehearing this matter this Honorable Court reconsider, revise, reverse, and withdraw its judgment rendered on June 10, 2005, affirming the judgment of the Circuit Court of Houston County, Alabama. Further, the Applicant moves this Honorable Court to enter an order reversing its June 10, 2005 judgment and enter judgment and order in favor of the Applicant. Submitted herewith is a brief and argument in support of said application.

Respectfully submitted this the 16 day of June, 2005.



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#### **CONSTITUTIONS, STATUTES, RULES & TREATISES**

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**STATEMENT OF THE CASE**

The Appellant, Ralph Wilson Lingo hereinafter referred to as Mr. Lingo, was indicted on September 5, 2003 for the offense of Intimidating a Witness. (C 7-8).

Mr. Lingo was tried on November 3<sup>rd</sup> and 4<sup>th</sup>, 2004, and December 9<sup>th</sup>, 2004, before the Hon. Jerry White, Circuit Court Judge, Houston County Alabama (R 2), and convicted of Intimidating a Witness by a jury via the indictment.

Mr. Lingo filed a Motion for New Trial on November 5<sup>th</sup>, 2004, (C 195-201), and the Motion for New Trial was denied on November 18<sup>th</sup>, 2004 (C 203). Mr. Lingo also made a Motion for a Judgment of Acquittal on November 3<sup>rd</sup>, 2004, (R 73), and the Motion for Judgment of Acquittal was denied on November 3<sup>rd</sup>, 2004 (C 193).

Mr. Lingo was sentenced on December 9, 2004, to the penitentiary of the State of Alabama for a period of twenty years. (C 4-5). Mr. Lingo was ordered to pay a fine in the amount of \$10,000.00, all of the costs of court, which included a \$1,000.00 payment to the Victim's Compensation Assessment. (C 4-5).

The Defendant gave oral Notice of Appeal on December 9<sup>th</sup>, 2004, (C 6). This Appeal follows.

STATEMENT OF POINTS OF LAW APPLICANT RESPECTFULLY BELIEVES  
THIS HONORABLE COURT OVERLOOKED OR MISAPPREHENDED

The Applicant respectfully submits that this Honorable Court overlooked or misapprehended the following points of law when initially reviewing the Appeal in this cause, to-wit:

WHETHER THE TRIAL COURT ERRED IN DENYING TO GIVE A JURY INSTRUCTION ON THE LESSOR INCLUDED OFFENSES OF CRIMINAL COERCION AND TAMPERING WITH A WITNESS? **YES**

Fulghum v. State, 291 Ala. 71, 277 So.2d 886 (1973). Lami v. State, 43 Ala. App. 108, 180 So.2d 279 (1965). Burns v. State, 229 Ala. 68, 155 So. 561(1934)

WHETHER THERE WAS INSUFFICIENT EVIDENCE TO WARRANT A MOTION FOR JUDGMENT OF ACQIUTTAL OF INTIMIDATING A WITNESS? **YES**

Thomas v.State, 363 So.2d 1020 (Ala.Crim.App. 1978) Cumbo v. State, 368 So.2d 871 (Ala.Crim.App. 1978), cert. denied, 368 So.2d 877 (Ala. 1979).


WHETHER TRIAL COUNSEL'S ASSISTANCE AT TRIAL WAS INEFFECTIVE? **YES**

Strickland v. Washington, 466 U.S. 668 (1984).

MOTION TO ADOPT APPLICANT'S STATEMENT OF FACTS  
PURSUANT TO RULES 39(d)(5), 39(k) and 40(e)  
ALABAMA RULES OF APPELLATE PROCEDURE

COMES NOW the Applicant, RALPH WILSON LINGO, in the above-styled cause, by and through the undersigned counsel and hereby moves this Honorable Court pursuant to Rules 39(d)(5), 39(k) and 40(e) of the Alabama Rules of Appellate Procedure to adopt the Applicant's "Statement of Facts" as set out herein and substitute them in the stead of the statement of facts issued in its opinion and judgment of June 10, 2005, in this matter.

Respectfully submitted this the 16 day of June, 2005.

  
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### **STATEMENT OF THE FACTS**

This matter was tried before the Hon. Judge Jerry White, Circuit Judge, presiding, on November 3<sup>rd</sup> through November 4<sup>th</sup>, 2004, and December 9<sup>th</sup>, 2004. The Hon. Henry C. Binford, Assistant District Attorney for the Circuit represented the State. The Hon. Tammy Stinson, Attorney at Law, Dothan, represented the Defendant, Mr. Lingo.

The State called its first witness, Sgt. Tony Luker, who was the investigating officer with the Dothan Police department. (R 24). Sergeant Luker testified that he was involved on a case where Ralph Lingo was accused of Intimidating a Witness. (R 24). Sergeant Luker testified further that he had interviewed Debra Tice Blackstone and Alicia Roberts during the course of his investigation. (R 25).

Sergeant Luker stated that Ms. Blackstone called the Police after receiving a package and a patrol officer came out and took an initial report and took the documents from her. He further stated that he had obtained the documents from the evidence vault. (R 25).

The State's Attorney asked Sergeant Luker the following question:

Q. What was the nature of Ms. Blackstone's complaint when she met with you?

A. Whenever I talked with her, she said that actually, she had taken a warrant out on Mr. Lingo for harassing communications - a city warrant in the city court. After she did that, he was, of course, arrested. And then she received a letter that contained naked pictures of her.

Sergeant Luker then stated that after interviewing Ms. Blackstone and Ms. Roberts he signed a warrant for the arrest of Mr. Lingo for the charge of Intimidating a Witness. (R 27-28). Sergeant Luker further testified that the documents at trial were the same documents he had recieved from the evidence vault. He also stated that Ms. Blackstone was shown these documents and confirmed that they were the same documents that she had received. (R 28).

Next the Defendant, Mr. Lingo, stood up and said that he would like to fire his attorney. Mr. Lingo stated that he had documents that he would like to enter to the court, and that he was not prepared for this trial because the jail would not let him take a bath, shave, have his legal

time with his attorney and that the State did not have any of his witnesses present. Mr. Lingo continued by stating that his home was searched in Henry County and that he was arrested in Henry County by a City of Dothan police officer without a Henry County Deputy present. (R 31).

Mr. Lingo stated further that he did not feel like he was being done right and that he wanted to enter some documents into the Court, whereby the Judge denied his motion. (R 32-33).

The state's next witness called was Ms. Debra Blackstone. She testified that Mr. Lingo was her ex-husband and that they had been married in 1989 and divorced in 1997. (R 33-34). Ms. Blackstone stated that she had signed a warrant against Mr. Lingo on April 24<sup>th</sup>, 2003 for harassing communications in the City of Dothan Municipal Court. She also testified that about a week later she received a letter at her home from some unidentified deliveryman. (R 34).

The State's Attorney showed Ms. Blackstone the documents and asked her if they were nude photographs of her, which she answered yes. She then testified further that Mr. Lingo had taken these pictures of her and that no

one else had access to them as far as she knew. (R 35). Ms. Blackstone was then shown the entire document and asked if this was the exact document that she had received at her home, at which time she responded that it was the same document. (R 36).

Ms. Blackstone also stated that when she received the documents she was overwhelmed because she did not know what Mr. Lingo would do. She also stated that it made her afraid to go to Court but she later went to Court anyway whereby Mr. Lingo was convicted of harassing communications. (R 37). She then stated that when she received the documents she called the police right away and that a patrol officer came out and took a report at her house. At that time she gave the documents to the patrol officer. (R 39). Ms. Blackstone then testified that the documents were in the same condition as they were when she received them at her house. (R 40).

The State then called Alicia Roberts as their next witness. Ms. Roberts testified that she had worked for Mr. Lingo to help fill out paper work and clean his house as well as other odd jobs. The State's attorney then showed Ms. Roberts the documents that were admitted into evidence



and asked her if she recognized them. Ms. Roberts said that she did recognize them because she had written the document. (R 47).

The State's Attorney asked Ms. Roberts the following questions:

Q. And where did you write that?

A. At his home.

Q. Are these your words?

A. Those are his words.

Q. How do you know that these are his words?

A. He told me - - he told me what to write because he couldn't read or write.

Q. Did you write down what he asked you to write?

A. Yes, sir.

Ms. Roberts further testified that she wrote the letter while she was an employee of Mr. Lingo and that she did not add anything to the letter of her own. She also stated that she did not have an axe to grind with Ms. Blackstone and she just did it for Mr. Lingo because she thought it was just a marital thing. (R 48-49).

The state then called Ed Sasser as their next witness. Mr. Sasser testified that he was an investigator with the

Alabama Department of Corrections. (R 54). Mr. Sasser stated that he investigated a complaint concerning an inmate by the name of Ralph Lingo at Bullock County Correctional Facility. (R 54). Mr. Sasser told the State's Attorney that he was investigating a complaint concerning Mr. Lingo and that he was not working on behalf of the Dothan Police Department. He also stated that he had not been contacted by any D.A.'s office to go and investigate the complaint. (R 55).

Mr. Sasser then told the Court that he had went to Bullock County Correctional Facility to speak with Mr. Lingo regarding the complaint. He testified that he read Mr. Lingo his rights and that Mr. Lingo freely and voluntarily waived his rights by signing a Miranda waiver. Mr. Sasser then proceeded to explain the nature of Mr. Lingo's statement that he had taken. (R 56-57). Mrs. Stinson timely objected to the statement and requested that the statement be suppressed due to the fact that it was not relevant to the case and that Mr. Lingo could not read or write so he did not know what he was signing. At this time the Court heard arguments from both sides outside the

presence of the jury and overruled the Defense's objection. (R 58-67).

Mr. Sasser continued to explain the statement that he had taken from Mr. Lingo and said that they talked about the complaint. He also stated that he asked Mr. Lingo about the charge of Intimidating a Witness and asked him if he had ever sent naked pictures to Ms. Blackstone at her house. Mr. Sasser said that Mr. Lingo told him that the deliveryman did not know what was inside the envelope but Ms. Blackstone did. (R 68-69). Mr. Sasser then said that he asked Mr. Lingo why he did that, and at that time Mr. Sasser told him that he had been informed of his rights and that they could stop at any time. Mr. Lingo then stated that he would like to stop now. (R 69). The State then rested.

Mrs. Stinson subsequently made a Motion for Judgment of Acquittal. Mrs. Stinson argued that Mr. Lingo has been charged with Intimidating a Witness, and that the State has not met the burden of proof as to the elements of Intimidating a Witness. (R 73). Mrs. Stinson argued that Mr. Lingo might have taken things further than he should have, but he was only trying to resolve the problems he had

with his ex-wife. Mrs. Stinson stated that the elements of Intimidating a Witness under 13A-10-123 are that the State must show one of the following: 1) That Mr. Lingo had to corruptly influence the testimony of a witness or a person he believes will be called as a witness; 2) That Mr. Lingo tried to induce that person to avoid legal process, summoning them to testify; or 3) That he induced that person to absent themselves from an official proceeding. (R 73). Mrs. Stinson further argued that the State has simply not proven any of the three and the defendant should be acquitted.

The Trial Court then looked at the evidence in front of the court and agreed that there was nothing in the letter to show that Mr. Lingo's conduct fell into the parameters of Intimidating a Witness. (R 74-75). The Court then heard arguments from the State in rebuttal to Mrs. Stinson's argument at which time the trial court denied the motion for judgment of acquittal. (R 82).

The court then allowed closing arguments by both Defense counsel and the State. The Court then charged the jury as to the offense of Intimidating a Witness and the elements thereof. After the Court charged the jury Mrs.

Stinson timely objected to the court's refusal to give a jury charge on the offenses of Criminal Coercion and Tampering with a Witness, which should have been given as lesser-included offenses of Intimidating a Witness. (R 95). The Defendant then proceeded to address the court as to many issues that he felt needed to be discussed regarding his case, and after he had finished the Court overruled his objections. (R 96-99)

The Houston County Jury found the Defendant guilty of Intimidating a Witness. (R 102). The Court then set a sentencing hearing for December 9, 2004 upon the request of Mrs. Stinson. On December 9, 2004 Mr. Lingo requested to address the Court again to state objections to his trial, which after a lengthy recital the Court then sentenced the Defendant to twenty years in the penitentiary of the State of Alabama, a fine of \$10,000 dollars and all cost of court, which will include a \$1,000 Victim's Compensation assessment. (R 117).

Upon sentencing by the Court the Defendant then gave oral notice of Appeal. (R 117).

**STATEMENT OF THE STANDARD OF REVIEW**  
**APPLICABLE TO EACH ISSUE PRESENTED FOR REVIEW**

"An individual accused of the greater offense has a right to have the court charge on the lesser offenses included in the indictment, when there is a reasonable theory from the evidence supporting his position. *Fulghum v. State*, 291 Ala. 71, 277 So.2d 886 (1973). A court may properly refuse to charge on lesser included offenses only (1) when it is clear to the judicial mind that there is no evidence tending to bring the offense within the definition of the lesser offense, or (2) when the requested charge would have a tendency to mislead or confuse the jury. *Lami v. State*, 43 Ala. App. 108, 180 So.2d 279 (1965). In fact, our decisions are to the effect that every accused is entitled to have charges given which would not be misleading, which correctly state the law of his case, and which are supported by any evidence, however weak, insufficient, or doubtful in credibility. *Burns v. State*, 229 Ala. 68, 155 So. 561(1934)."

The trial court's denial of a motion for a judgment of acquittal must be reviewed by, "determining whether there existed legal evidence before the jury, at the time the

motion was made, from which the jury by fair inference could have found the appellant guilty." *Thomas v. State*, 363 So.2d 1020 (Ala.Crim.App. 1978). "In determining the sufficiency of the evidence to support the verdict of the jury and the judgment of the trial court, we view the evidence in the light most favorable to the prosecution." *Cumbo v. State*, 368 So.2d 871 (Ala.Crim.App. 1978), cert. denied, 368 So.2d 877 (Ala. 1979).

"When reviewing a claim of ineffective assistance of counsel we apply the two-pronged standard of review first announced by the United States Supreme Court in *Strickland v. Washington*, 466 U.S. 668 (1984). The petitioner must show (1) that his counsel's performance was deficient and (2) that he was prejudiced as a result of his counsel's performance."

SUMMARY OF THE ARGUMENT

Mr. Lingo argues that the trial court erred in refusing to give a jury instruction as to the lesser-included offenses of Criminal Coercion and Tampering with a Witness. Specifically, Mr. Lingo argues that the state failed to prove a prima facie case against him on the charge of Intimidating a Witness. Mr. Lingo argues that the State failed to prove that he attempted to corruptly influence the witness, attempted to induce the witness to avoid legal process, or that he attempted to induce a witness to absent him or her self from an official proceeding that they had been summoned to.

Mr. Lingo further argues that the trial court erred in denying his motion for judgment of acquittal. In particular, he argues that the evidence submitted at trial was merely circumstantial and that the evidence was insufficient to warrant a conviction on the charge of Intimidating a Witness. Mr. Lingo contends that the evidence presented at trial did not prove a prima facie case for the State and that the Judge should have granted his motion for judgment of acquittal.



Mr. Lingo also argues that he was denied the effective assistance of counsel at trial. Mr. Lingo specifically asserts that he requested for his attorney to call certain witnesses on his behalf at trial and his attorney refused to do so. Mr. Lingo also states that he asked his attorney to question the officer on the issues of the validity of his arrest and the search of his home, which trial counsel did not do. Mr. Lingo argues that had he been adequately represented at trial then he probably would have had a different outcome to his case.

## **ARGUMENT**

### **ISSUE ONE**

**WHETHER THE TRIAL COURT ERRED IN DENYING TO GIVE A JURY INSTRUCTION ON THE LESSOR INCLUDED OFFENSES OF CRIMINAL COERCION AND TAMPERING WITH A WITNESS? YES**

The Appellant, Ralph Lingo, contends that the trial court erred in refusing to instruct the jury on the elements of the crime of Criminal Coercion and Tampering with a Witness, arguing that they are lesser-included offenses of Intimidating a Witness. The trial court denied the Defense a jury instruction on Criminal Coercion and Tampering with a Witness. (R 95-99).

The Appellant, through his attorney, moved for a judgment of acquittal at the end of the State's case in chief and the trial court noted that the defense counsel had argued for lesser-included offenses. (R 80). Defense counsel also timely objected to the court's refusal to give a jury charge on the lesser-included offenses of Criminal Coercion and Tampering with a Witness, which the trial court overruled. (R 99). The Appellant argues that since there was no evidence presented at trial to prove

that he tried to corruptly influence the testimony of a witness or person he believes will be called as a witness; or that he tried to induce that person to avoid legal process; or that he tried to induce that person to absent themselves from an official proceeding pursuant to 13A-10-123 Code of Alabama 1975, which is Intimidating a Witness, then he should have been entitled to a jury charge on the lesser-included offenses of Criminal Coercion and Tampering with a Witness.

Pursuant to Section 13A-6-25 Code of Alabama 1975 and Section 13A-10-124 Code of Alabama 1975 the Trial Court should have charged with the jury charge of Criminal Coercion and Tampering With a Witness. The Code of Alabama 1975, Section 13A-6-25 states as follows:

(a) A person commits the crime of criminal coercion if, without legal authority, he threatens to confine, restrain or to cause physical injury to the threatened person or another, or to damage the property or reputation of the threatened person or another with intent thereby to induce the threatened person or another against his will to do an unlawful act or refrain from doing a lawful act.

(b) Criminal Coercion is a Class A misdemeanor;

And Section 13A-10-124 Code of Alabama 1975, on Tampering with a Witness states as follows:

a) A person commits the crime of tampering with a witness if he attempts to induce a witness or a person he believes will be called as a witness in any official proceeding to:

(1) Testify falsely or unlawfully withhold testimony;  
or

(2) Absent himself from any official proceeding to which he has been legally summoned.

(b) Tampering with a Witness is a Class B misdemeanor.

In the instant case the Appellant's trial counsel argued in her motion for judgment of acquittal that there was no evidence presented at trial to prove that the Appellant was guilty of Intimidating a Witness. Trial counsel simply stated that even though the letter that the Appellant sent to his ex-wife was a bit harsh, in no way did it rise to the level of Intimidating a Witness. (R 74) The Appellant was simply trying to resolve the issue with his ex-wife, and in no way did he try to corruptly influence her testimony, or induce her to absent herself from a proceeding, or to avoid legal process. (R 74).

Furthermore, the Trial Court stated that it did not see how the conduct of the Defendant satisfied any of the

elements of 13A-10-123 Code of Alabama 1975. The trial

Court stated:

The statute on Intimidating a witness, in order to constitute the offense of Intimidating a witness, it says that a person commits the crime of Intimidating a witness if he attempts by use of a threat directed to a witness or a person he believes will be called as a witness in any official proceedings to corruptly influence the testimony of that person. I don't see in here where - in this letter where there's any attempt to corrupt her testimony -- or to avoid legal process summoning her to testify - and I don't see any demand that that be done - or induce that person to absent herself from an official proceeding to which she has been legally summoned. There's nothing in here - the threats that are made are concerning that legal proceeding is, I want you to drop that case... I will never contact you again. You drop your phony warrant or you will be sued at the right time and arrested with warrants against you... I guess my whole problem is that I don't see where this fits into any of these one, two, or three.

(R 74-75).

The Trial Court refused to give the jury instructions on Criminal Coercion and Tampering with a Witness because the State argued that the letter taken as a whole could be construed as threat and that the jury should decide if the Appellant intended to intimidate a witness according to the statute. The Trial Court stated that it just seemed like it would be reversible error if they instructed the jury on the offenses of Criminal Coercion and Tampering with a

Witness. However, there was no evidence admitted or testimony given that the appellant's conduct rose to the level set out in the statute for Intimidating a Witness.

The Appellant contends that although there was testimony that the Appellant threatened Ms. Blackstone, the ultimate decision of his conduct should have been given to the jury under the jury charge of Criminal Coercion and Tampering with a Witness.

"A person accused of the greater offense has a right to have the court charge on lesser included offenses when there is a reasonable theory from the evidence supporting those lesser included offenses.' *MacEwan v. State*, 701 So.2d 66, 69 (Ala.Crim.App. 1997). An accused has the right to have the jury charged on "any material hypothesis which the evidence in his favor tends to establish.'" *Ex parte Stork*, 475 So.2d 623, 624 (Ala. 1985). 'Every accused is entitled to have charges given, which would not be misleading, which correctly state the law of his case, and which are supported by any evidence however weak, insufficient, or doubtful in credibility,' *Ex parte Chavers*, 361 So.2d 1106, 1107 (Ala. 1978), 'even if the evidence supporting the charge is offered by the State.' *Ex*

*parte Myers*, 699 So.2d 1285, 1290-91 (Ala. 1997), cert. denied, 522 U.S. 1054, 118 S.Ct. 706, 139 L.Ed.2d 648 (1998). However, the court shall not charge the jury with respect to an included offense unless there is a rational basis for a verdict convicting the defendant of the included offense.'"

Therefore a determination of whether under the facts of the instant case, there is a reasonable theory from the evidence to support the theory that Criminal Coercion and Tampering with a Witness were lesser-included offenses of Intimidating a Witness needs to be made.

Section 13A-1-9, Ala. Code 1975, provides, in pertinent part:

- (a) A defendant may be convicted of an offense included in an offense charged. An offense is an included one if:
  - (1) It is established by proof of the same or fewer than all the facts required to establish the commission of the offense charged; or
  - . . . ;
  - (4) It differs from the offense charged only in the respect that a less serious injury or risk of injury to the same person, property or public interests, or a lesser kind of culpability suffices to establish its commission."

*Moss v. State*, CR-03-1180 (Ala.Crim.App. 2005).

It seems to be well settled that "a defendant is entitled to a charge on a lesser included offense if there is any reasonable theory from the evidence that would support the lesser included offenses." *Gavin v. State*, 891 So.2d 907 (Ala.Crim.App. 2003); *MacEwan v. State*, 701 So.2d 66, 69 (Ala.Crim.App. 1997).

The Appellant argues that had the trial court instructed the jury on Criminal Coercion and Tampering with a Witness as a lesser-included offense, then the jury may have found the defendant guilty of one of these lesser offenses rather than Intimidating a Witness under Section 13A-10-123.

It is clear that the evidence presented in this case at trial would have supported instructions on Criminal Coercion and Tampering with a Witness as lesser-included offenses of the offense of Intimidating a Witness, and the trial court committed reversible error by refusing to give such instructions.



ISSUE TWO

**WHETHER THERE WAS INSUFFICIENT EVIDENCE TO WARRANT A  
MOTION FOR JUDGMENT OF ACQUITTAL OF INTIMIDATING A  
WITNESS? YES**

The second issue presented for review by the Appellant pertains to the sufficiency of the evidence and whether the evidence warrants the Appellant's conviction for Intimidating a Witness. The Appellant asserts that the evidence was insufficient to sustain the conviction. Once the State rested, defense counsel moved for a judgment of acquittal based on the fact that the State had failed to prove a prima facie case on the charge in the indictment. The court denied the motion for judgment of acquittal after supporting arguments were made, and then the defense rested.

The Appellant argues that the State failed to prove the charge in the indictment, specifically, the part of the indictment that states that the Appellant attempted by use of a threat to a witness or person he believed would be called as a witness, to corruptly influence their testimony, to induce them to avoid legal process summoning them to testify, or to induce them to absent themselves from an official proceeding that they had been

summoned to. The State failed to prove beyond a reasonable doubt that the Appellant intended to intimidate a witness.

If the Appellant raises an argument that is based on a sufficiency of evidence issue, then the Court in reviewing that issue must view the evidence presented at trial in a light most favorable to the state. *Seaton v. State*, 645 So.2d 341,343 (Ala.Crim.App. 1994); *Daniels v. State*, 581 So.2d. 536 (Ala.Crim.App. 1990) writ denied; *Poole v. State*, 645 So.2d. 330, 331 (Ala.Crim.App. 1994). Furthermore, " a verdict of conviction will not be set aside on the ground of insufficiency of the evidence unless, allowing all reasonable presumptions for its correctness, the preponderance of the evidence against the verdict is so decided as to clearly convince this court that it was wrong and unjust." *Ward v. State*, 610 So.2d. 1190, 1191 (Ala.Crim.App. 1992); *Johnson v. State*, 378 So.2d. 1164 (Ala.Crim.App. 1979), cert. Quashed, 378 So.2d. 1173 (Ala. 1979).

The Appellant contends that there was insufficient evidence to support his conviction. The Appellant was convicted of Intimidating a Witness. The appellant argues

that the State did not prove any of the three elements of Intimidating a Witness. The trial Court even states that they do not see any evidence in the letter that shows that the appellant tried to corruptly influence the testimony of a witness, induce the witness to avoid legal process, or induce the witness to absent themselves from an official proceeding. (R 74-75) The evidence in this case was mostly circumstantial and there was no evidence offered to show that the appellant intended to intimidate a state witness. This Court has previously addressed the viewpoint an appellate must follow in reviewing a conviction based on sufficiency of the evidence.

"In determining the sufficiency of the evidence to sustain the conviction, this Court must accept as true the evidence introduced by the State, accord all legitimate inferences therefrom, and consider the evidence in the light most favorable to the prosecution.'" *Ballenger v. State*, 720 So.2d. 1033, 1034 (Ala.Crim.App. 1998); (quoting *Faircloth v. State*, 471 So.2d. 485, 488 (Ala.Crim.App. 1984), *aff'd*, 471 So.2d. 493 (Ala. 1985)). " The test used in determining the sufficiency of evidence to sustain a conviction is

whether, viewing the evidence in the light most favorable to the prosecution, a rational finder of fact could have found the defendant guilty beyond a reasonable doubt." *Nunn v. State*, 697 So.2d. 497, 498 (Ala.Crim.App. 1997) (quoting *O'Neal v. State*, 602 So.2d 462, 464 (Ala.Crim.App. 1992)). It is clear in the present case that based on the facts a rational fact finder could not find the appellant guilty of Intimidating a Witness because the State failed to prove any of the elements of the offense that the appellant was charged with.

The trial court's denial of a motion for judgment of acquittal must be reviewed by determining if there was legal evidence in existence before the jury at the time the motion was made, in which a jury, by fair inference, could have found the appellant guilty. *Thomas v. State*, 363 So.2d. 1020 (Ala.Crim.App. 1978). The appellate court, in reviewing the denial of a judgment of acquittal, will only determine if the legal evidence presented was such that a jury could have found the defendant guilty beyond a reasonable doubt. *Willis v. State*, 447 So.2d. 199 (Ala.Crim.App. 1983).

It is customary that when a defendant moves for a judgment of acquittal, that the trial court must examine the evidence in order to determine its sufficiency in light of the charges contained in the indictment. *Ward v. State*, 557 So.2d 848, 850 (Ala.Crim.App. 1990).

The trial court's denial of a motion for judgment of acquittal must be reviewed by determining whether there was legal evidence before the jury at the time the motion was made from which the jury by fair inference could find the defendant guilty. *Thomas v. State*, 363 So.2d 1020 (Ala.Crim.App. 1978).

It has also been stated that a motion for judgment of acquittal tests the sufficiency of the evidence to support a conviction, "when the evidence raises a question of fact for the jury and such evidence, if believed, is sufficient to sustain a conviction, the denial of a motion for judgment of acquittal by the trial court does not constitute error. *Breckenridge v. State*, 628 So.2d 1012, 1018 (Ala.Crim.App. 1993); *Young v. State*, 283 Ala. 676, 220 So.2d 843 (1969). This is not the case here because the evidence was insufficient to prove that the appellant was guilty of the offense he was charged with. However, such a

determination and ruling by a trial court would not prevent the appellate court from reviewing the issue. *Newsome v. State*, 570 So.2d 703,710 (Ala.Crim.App. 1989). The review by an appellate court requires that " in determining the sufficiency of the evidence to sustain a conviction, the reviewing court must accept as true all evidence introduced by the State, accord the State all legitimate inferences therefrom, and consider all evidence in a light most favorable to the prosecution." *Ballenger v. State*, 720 So.2d. 1033, 1034 (Ala.Crim.App. 1998); (quoting *Faircloth v. State*, 471 So.2d. 485, 488 (Ala.Crim.App. 1984), *aff'd*, 471 So.2d. 493 (Ala. 1985)). Furthermore, if an appellate court does discover that there is the existence of conflicting evidence, then it will prevent any appellate review of the evidence or its sufficiency. *Metzger v. State*, 565 So.2d 291, 292 (Ala.Crim.App. 1990).

The Appellant understands that it is necessary to protect the record for review, and that to protect this record for review the defendant must file a motion for new trial or a motion for judgment of acquittal. Rule 20.2(a), Ala.R.Crim.P. In the case at bar, the Appellant filed a motion for judgment of acquittal. (R 73).

Therefore, the question to be answered is whether a jury might find that the evidence excluded every reasonable hypothesis except that of guilt? *Cumbo v. State*, 368 So.2d 871 (Ala.Crim.App. 1978), cert denied, 368 So.2d 877 (Ala. 1979). The Appellant contends that a jury could not reasonably do so here, and that the Appellant's case should be reversed and remanded with the appropriate instructions.

**ISSUE THREE**

**WHETHER TRIAL COUNSEL'S ASSISTANCE AT TRIAL WAS  
INEFFECTIVE? YES**

Appellant, Ralph Lingo, contends that he was denied the effective assistance of counsel at trial. Mr. Lingo argues that during his trial he made an attempt to fire his attorney because of her failure to investigate his case and for her failure to cross examine the State's witnesses as to pertinent information that might have led to his acquittal. (R 31-32).

The appellant filed a motion for new trial on November 10, 2004 stating the reasons that he should be entitled to a new trial. (C 195-201). Mr. Lingo states in his motion that his attorney had misled him and would lie to him about his case, and he states that his attorney would not cross-examine any of the witnesses as to certain areas he believed to be relevant. (C 195-196) Mr. Lingo also says that his attorney had not informed him that none of witnesses would be called at trial; he also claims that his attorney would not question the officers about him being arrested outside of the county that issued the arrest warrant. Mr. Lingo also contends that he asked his attorney



to bring up the issue of his home being searched without a valid search warrant and she refused to do so. (C 196)

Mr. Lingo also states in his motion that his attorney did not question the jury properly because some of the jurors were co-workers of the victim. (C 197). Mr. Lingo further argues that he had asked his attorney several times to withdraw from his case because she said not to call him and to only write her once a month, and that she would only get prepared for trial right before trial. Also, he brings up the fact that his attorney would not question the victim about her common law marriage to Mr. Lingo, which would have brought her testimony under the spousal privilege not to testify against your spouse. (C 198-199). Thus, for the reasons set out above the appellant believes that his trial counsel denied him the right to effective assistance that was necessary for him to get a fair trial.

The appellant argues that even though his motion for new trial was not extremely specific and was not supported with affidavits he is not precluded from review by this court under *Ex parte Jefferson*, 749 So.2d 406 (Ala. 1999). "Normally, a defendant's motion for a new trial requires verification in the form of an affidavit. *Jones v. State*,

727 So.2d 866, 867 (Ala.Crim.App. 1998) (citing *Hill v. State*, 675 So2d. 484 (Ala.Crim.App. 1995)).

In *Similton v. State*, 672 So.2d 1363 (Ala.Crim.App. 1995) the Court of Criminal Appeals said that an unverified motion were only bare allegations and could not be considered as evidence of the facts alleged. However, in *Hill v. State*, 675 So2d. 484 (Ala.Crim.App. 1995), "the Court of Criminal Appeals changed their holding from *Similton* and reversed the trial court's denial of a motion for new trial and remanded the case to the trial court because the allegations of ineffective assistance of counsel were supported by facts contained in the record on appeal. Supporting affidavits or other evidence is not necessary where the grounds relied on in the motion for new trial are shown by the record." *Hill v. State*, supra.

To analogize with *Hill*, in the present case the allegations relied on by Mr. Lingo can be supported by the actual trial transcript. The record reflects that during the trial the allegations that Mr. Lingo asserts can be proven very easily simply by reading the transcript and noticing that the counsel at trial did not in fact do what a reasonable attorney would have done. Furthermore, Mr.

Lingo argues that, "If the record on appeal shows that the trial counsel's assistance at trial was so deficient as to fall below an objective standard of reasonableness, as the record here reflects, there is no need for a more specific motion." Therefore, in the present case Mr. Lingo's motion for new trial that raises allegations of ineffective assistance of counsel was sufficient to preserve the issue for appeal.

The appellant is aware that in order to raise the issue of ineffective assistance of counsel on appeal that he must first present the issue to the trial court in a motion for new trial. *Montgomery v. State*, 781 So.2d 1007, 1010 (Ala.Crim.App. 2000). Mr. Lingo did file a motion for new trial on November 5, 2004. (C 195) He filed the motion before his sentence date and it was ruled on before his sentence date, which in effect deems the motion to have been filed on the date of sentencing, and denied by operation of law. . Rule 24.1(a), Ala.R.Crim.P.

In order for an appellant to prevail on a claim for ineffective assistance of counsel they must satisfy the test set by the Supreme Court which is:

1. An appellant must show that his counsel's performance at trial was deficient and,
2. That he was prejudiced by the deficient performance. *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984).

In order to prove the first element of the test the appellant must prove that his counsel made errors that were so egregious that he was denied the representation that is guaranteed him under the Sixth Amendment. The appellant must also show that he was prejudiced by the deficient performance by proving that his counsel made errors that were so serious that he was deprived of a fair trial. *Id* at 687. In proving the elements of the test the appellant has the burden of proof and must satisfy the test with by a preponderance of the evidence. *Wilson v. State*, 644 So.2d 1326, 1328 (Ala.Crim.App. 1994). However, there is a presumption that trial counsel did provide the appellant with effective assistance at trial. *Halford v. State*, 629 So.2d 6 (Ala.Crim.App. 1992).

In a case such as this the performance element is an objective standard that is, "whether counsel's

assistance, judged under prevailing professional norms was reasonable considering the circumstances." *Daniels v. State*, 650 So.2d 544, 552 (Ala.Crim.App. 1994) (quoting *Strickland*, supra). " A court in deciding an actual ineffectiveness claim must judge the reasonableness of counsel's challenged conduct on the facts of the particular case, viewed as of the time of counsel's conduct." *Strickland*, supra. The prejudice component requires that there be proof that counsel's errors at trial were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable. *Strickland*, supra.

When asserting an ineffective of counsel claim the Defendant has to prove that there was a reasonable probability that, but for counsel's unprofessional errors, the result of the case would have been different. Even a reasonable probability is sufficient to undermine confidence in the outcome of the case. *Id* at 696.

In the case at bar Mr. Lingo argues that his trial counsel's performance at trial was deficient. Mr. Lingo points to the record and alleges in his motion for new trial that his attorney did not call any witnesses on his

behalf like he requested, his attorney would not cross examine any of the witnesses on issues that would have helped his case significantly. (R 195-201) Specifically, he asserts that his attorney would not question the officer that arrested him on the grounds of the validity of the arrest warrant whereby he was arrested in Henry County with a Houston County warrant without said warrant being domesticated. (R 31-32). Mr. Lingo believes that his Constitutional right to have the effective assistance of counsel has been violated. Mr. Lingo further contends that his attorney failed to question the victim as to her common law marriage with the Appellant, which could preclude her testimony against Mr. Lingo. (C 199).

Mr. Lingo also states that he did not have any time to talk with his attorney, that she did not want him to call her, and that he had requested that she withdraw from his case and the court would not allow it. (R 31-32). Furthermore, Mr. Lingo asserts that because of the above mentioned errors performed by his attorney he was prejudiced by the deficient acts of his trial counsel, because if counsel had of investigated his case more

professionally then the outcome of his case would have been different.

Therefore, the fact that Mr. Lingo's counsel at trial failed to perform many of the ministerial acts performed by attorney's at trial, he was rendered helpless and without the effective assistance of counsel. The record in this case shows that Mr. Lingo requested his attorney to perform a number of acts pertaining to his case in which the trial counsel simply had refused to perform. The mere fact that the trial counsel was requested to perform these functions and the record supporting the fact that they were not done proves that the trial counsel's performance was deficient and that because of this deficiency Mr. Lingo was prejudiced by an unjust result at his trial.

Mr. Lingo prays this Honorable Court will grant him relief by reversing and remanding this matter to the Trial Court with instructions to enter a judgment of acquittal, or in the alternative, reverse the trial court and render a verdict of not guilty.

### **CONCLUSION**

Mr. Lingo submits to this Honorable Court that the Trial Court erred in refusing to give a jury instruction as to the offenses of Criminal Coercion and Tampering with a Witness, which should have been lesser-included offenses of Intimidating a Witness.

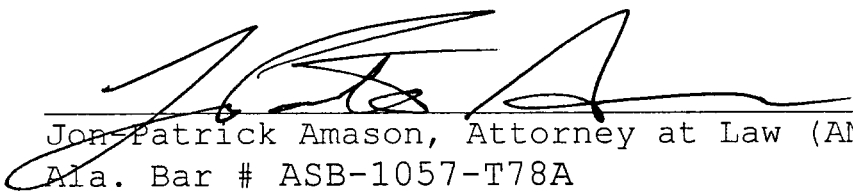
Mr. Lingo further contends that his motion for judgment of acquittal should have been granted due to the fact that the State failed to meet their burden in proving a prima facie case against him. The State did not produce any evidence or testimony at trial that would prove that the conduct of Mr. Lingo was commensurate with the conduct required to be guilty of the offense of Intimidating a Witness.

Mr. Lingo also asserts that he was prejudiced by his attorney and if he had been afforded the effective assistance of counsel at trial then the result of his case would have been different. Mr. Lingo states several times in the record that he was unhappy with the assistance that he was being given and that his attorney would not proceed with his case in the manner that a reasonable attorney would have.



Wherefore, Mr. Lingo prays this Honorable Court will grant him relief by reversing and remanding this matter to the Trial Court with instructions to enter a judgment of acquittal, or in the alternative, reverse the trial court and render a verdict of not guilty.

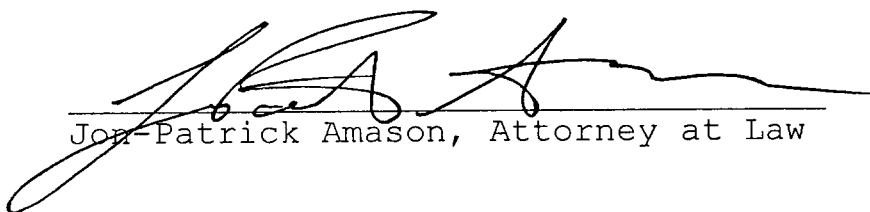
Respectfully submitted this the 16 day of June, 2005.



Jon Patrick Amason, Attorney at Law (AMA 005)  
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ATTORNEY FOR APPELLANT

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the above and foregoing Application For Rehearing and Supporting Brief upon the Attorney General for the State of Alabama, Alabama State House, 11 South Union Street, Montgomery, AL 36130, by placing a copy of the same in the United States Mail, postage prepaid and properly addressed to him on this the 16 day of June, 2005.

  
Jon-Patrick Amason, Attorney at Law



# IN THE SUPREME COURT OF ALABAMA



August 12, 2005

1041488

Ex parte Ralph Wilson Lingo. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS (In re: Ralph Wilson Lingo v. State of Alabama) (Houston Circuit Court: CC03-599; Criminal Appeals : CR-04-0602).

## CERTIFICATE OF JUDGMENT

### Writ Denied

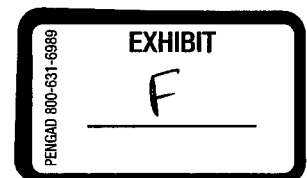
The above cause having been duly submitted, IT IS CONSIDERED AND ORDERED that the petition for writ of certiorari is denied.

LYONS, J. - Nabers, C.J., and Woodall, Smith, and Parker, JJ., concur.

**I Robert G. Esdale, Sr., as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.**

**Witness my hand this** 12th **day of** August, 2005

*Robert G. Esdale, Sr.*  
**Clerk, Supreme Court of Alabama**



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75586  
7/13

IN THE SUPREME COURT OF ALABAMA

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EX PARTE: RALPH WILSON LINGO

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RALPH WILSON LINGO,  
APPELLANT

V.

STATE OF ALABAMA,  
APPELLEE

PETITION FOR WRIT OF CERTIORARI TO  
THE SUPREME COURT OF ALABAMA

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AN APPEAL FROM THE CIRCUIT COURT

HOUSTON COUNTY, ALABAMA

CIRCUIT COURT CASE NO. CC-03-599

CRIMINAL APPEALS COURT NO. CR-04-0602

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JON-PATRICK AMASON (AMA 005)  
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RALPH WILSON LINGO,	*
PETITIONER,	*
V.	*
STATE OF ALABAMA,	*
RESPONDENT.	*

TO THE SUPREME COURT OF ALABAMA:

COMES NOW your petitioner, RALPH WILSON LINGO, and petitions this Honorable Court for a Writ of Certiorari to issue to the Court of Criminal Appeals in the above styled cause, pursuant to Rule 39, Alabama Rules of Criminal Procedure, and as grounds for said petition shows as the following:

1. The Appellant, Mr. Lingo, was convicted on the charge of Intimidating a Witness in the Circuit Court of Houston County. The basis for the charge in this case was a letter that the Appellant sent to his ex-wife that contained some threatening

language and photographs. Mr. Lingo was tried on November 3<sup>rd</sup> and 4<sup>th</sup>, 2004, and December 9<sup>th</sup>, 2004, before the Hon. Jerry White, Circuit Court Judge, Houston County Alabama, and convicted of Intimidating a Witness by a jury via the indictment.

Mr. Lingo filed a Motion for New Trial on November 5<sup>th</sup>, 2004, and the Motion for New Trial was denied on November 18<sup>th</sup>, 2004.

Mr. Lingo also made a Motion for a Judgment of Acquittal on November 3<sup>rd</sup>, 2004, and the Motion for Judgment of Acquittal was denied on November 3<sup>rd</sup>, 2004.

Mr. Lingo argues that the trial court erred in refusing to give a jury instruction as to the lesser-included offenses of Criminal Coercion and Tampering with a Witness. Specifically, Mr. Lingo argues that the state failed to prove a prima facie case against him on the charge of Intimidating a Witness. Mr. Lingo also argues that the trial court

erred in denying his motion for judgment of acquittal. In particular, he argues that the evidence submitted at trial was merely circumstantial and that the evidence was insufficient to warrant a conviction on the charge of Intimidating a Witness. Mr. Lingo further argues that he was denied the effective assistance of counsel at trial.

2. Mr. Lingo was sentenced on December 9, 2004, to the penitentiary of the State of Alabama for a period of twenty years. The Defendant gave oral Notice of Appeal on December 9<sup>th</sup>, 2004 and Appellant's brief was filed with the Court of Criminal Appeals on April 15, 2005. This case was affirmed by memorandum opinion on June 10, 2005 and Appellant filed his Application For Rehearing on June 16, 2005. Appellant's Application For Rehearing was denied on June 24, 2005. This Petition for



Writ of Certiorari follows said denial of Application for Rehearing.

3. That petitioner has attached a copy of the opinion of the Court of Criminal Appeals, which was provided to him as Exhibit "A".
4. That the Petitioner has attached the order of the Court of Criminal Appeals denying his application for rehearing as Exhibit "B" to this petition;
5. (a) Petitioner seeks to have controlling Supreme Court cases overruled, which were followed in the decision of the court of appeals.  
  
(b) The second basis of this petition for the writ is that the decision of the appellate court is in conflict with its prior decision on the same point of law or has misapprehended the law in this case. In its opinion in the case at bar the Court of Criminal Appeals held:

"No party may assign as error the court's ... failing to give [an]

instruction ... unless the party objects thereto before the jury retires to consider its verdict, stating the matter to which he or she objects and the grounds of the objection." Rule 21.3, Ala. R. Crim. P.

The basis of the opinion in this case is in direct conflict with this Honorable Court's previous opinion set out in Toles v. State, 854 So.2d 1171 (Ala.Crim.App. 2002).;

"We find support for the proposition that Toles preserved his jury charge argument in Ex parte Weaver, 763 So.2d 982 (Ala. 1999). In Weaver, at the close of the jury charge, but before the jury retired to deliberate, the following exchange took place:

"`[Defense counsel]: What about on his right to remain silent and not testify and to have that not used against him? You didn't give any instruction on that.

"`THE COURT: Well, it is not mandatory to give anything on that. It hasn't been raised as an issue.

"`[Defense counsel]: Well, he didn't testify. I don't think that -

"`THE COURT: Well, you went through that in voir dire. It is too late now.

"`[Defense counsel]: I don't think it's too late. We object to it.

"`THE COURT: Okay. Anything further?

"`[Prosecutor]: The State is satisfied.'

"(R. 326-27.)"

Weaver, 763 So.2d at 984. The State argued on appeal that Weaver's claim that the trial court erred in refusing to give the requested jury instruction was not preserved for appellate review because, it argued, the objection was not sufficiently specific. The Alabama Supreme Court stated that Weaver "did not make a proper objection to the refusal of the requested charge." Weaver, 763 So.2d at 986. However, the Alabama Supreme Court, quoting Felder, stated: "`Although the "magic words" were never employed and although defense counsel should have been specific in stating the grounds of his objection, it is apparent that both defense counsel and the trial court understood [the objection to the jury charge].'" Weaver, 763 So.2d at 985 (quoting Felder v. State, 593 So.2d 121, 122-23 (Ala.Crim.App. 1991)).

The Alabama Supreme Court further noted that, unlike Felder, there had been no charge conference in Weaver's case, so the requested charges were not discussed prior to the jury charge. In this case, Toles, like Weaver, did not have the benefit of a charge conference and therefore "objected after the court had already given its instructions to the jury." Weaver, 763 So.2d at 986.

Based on the holding in Toles v. State the trial court erred in refusing to give a jury instruction as to the lesser-included offenses of criminal Coercion and Tampering with a Witness. If these charges had been given then it would possibly have changed the outcome of the case.

Furthermore in this case the defense counsel adequately and timely argued her case to the judge in her motion for judgment of acquittal at the close of the State's case in chief as to why the lesser-included offenses should be addressed by the Court. There had been no charge conference in this case, so the requested charges were not discussed prior to the jury charge. Defense counsel then stated generally again to the Court that she would object to jury instructions

not being given on the lesser-included offenses after the jury was charged.

This general objection should not bar this Court from reviewing this appeal because even though the specific words were never stated and although defense counsel should have been specific in stating the grounds of her objection, it is apparent that both defense counsel and the trial court understood the nature of her objection to the jury charge.

(c) The third basis of this petition is that the Court of Criminal Appeals misapprehended the law as applied to the facts of this case. In *Thomas v. State*, 363 So.2d 1020 (Ala.Crim.App. 1978). This court stated;

While a jury is under a duty to draw whatever permissible inferences it may from the evidence, including circumstantial evidence, mere speculation, conjecture, or surmise that the accused is guilty of the offense charged does not authorize a conviction. Smith v. State, 345 So.2d 325 (Ala.Cr.App.), cert. quashed, 345 So.2d 329 (Ala. 1976); Colley v. State, 41 Ala. App. 275, 128 So.2d 525 (1961). A defendant should not be convicted on mere suspicion or out of fear that he

might have committed the crime. Harnage v. State, 49 Ala. App. 563, 274 So.2d 333 (1972). While reasonable inferences from the evidence may furnish a basis for proof beyond a reasonable doubt, Royals v. State, 36 Ala. App. 11, 56 So.2d 363, cert. denied, 256 Ala. 390, 56 So.2d 368 (1952), mere possibility, suspicion, or guesswork, no matter how strong, will not overturn the presumption of innocence. Sauls v. State, 29 Ala. App. 587, 199 So. 254 (1941); Riley v. State, 28 Ala. App. 389, 187 So. 247 (1939); Rungan v. State, 25 Ala. App. 287, 145 So. 171 (1932); Guin v. State, 19 Ala. App. 67, 94 So. 788 (1922).

An inference is merely a permissible deduction from the proven facts, which the jury may accept or reject or give such probative value to as it wishes. Roberts v. State, 346 So.2d 473 (Ala.Cr.App.), cert. denied, 346 So.2d 478 (Ala. 1978); Hale v. State, 45 Ala. App. 97, 225 So.2d 787, cert. denied, 284 Ala. 730, 225 So.2d 790 (1969); Orr v. State, 32 Ala. App. 77, 21 So.2d 574 (1945). It is a logical and reasonable deduction from the evidence and is not supposition or conjecture. Guesswork is not a substitute. Stambaugh v. Hayes, 44 N.M. 443, 103 P.2d 640 (1940); Bolt v. Davis, 70 N.M. 449, 374 P.2d 648 (1962). A supposition is a conjecture based on the possibility or probability that a thing could have or may have occurred without proof that it did occur. Louisville

& N.R. Co. v. Mann's Adm'r, 227 Ky. 399, 13 S.W.2d 257 (1929). The possibility that a thing may occur is not alone evidence, even circumstantially, that the thing did occur. Parker v. State, 280 Ala. 685, 198 So.2d 261 (1967); Miller-Brent Lumber Co. v. Douglas, 167 Ala. 286, 52 So. 414 (1910).

The Appellant argues that the State failed to prove the charge in the indictment, specifically, the part of the indictment that states that the Appellant attempted by use of a threat to a witness or person he believed would be called as a witness, to corruptly influence their testimony, to induce them to avoid legal process summoning them to testify, or to induce them to absent themselves from an official proceeding that they had been summoned to. The State failed to prove beyond a reasonable doubt that the Appellant intended to intimidate a witness.

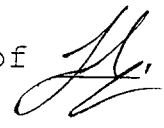
The appellant argues that the State did not prove any of the three elements of Intimidating a Witness. The trial Court even states that they do not see any evidence in the letter that shows that the appellant tried to corruptly influence the testimony of a witness, induce the witness to avoid legal process,

or induce the witness to absent themselves from an official proceeding. The evidence in this case was mostly circumstantial and there was no evidence offered to show that the appellant intended to intimidate a state witness. Therefore the jury verdict in this case simply becomes mere speculation or conjecture as to what the Appellant intended by the letter. It is clear that the letter the Appellant sent to his ex-wife alone, without any other evidence being offered to prove the meaning of the letter, is not sufficient to sustain a conviction based upon the speculation of the jury as to the meaning of the letter.

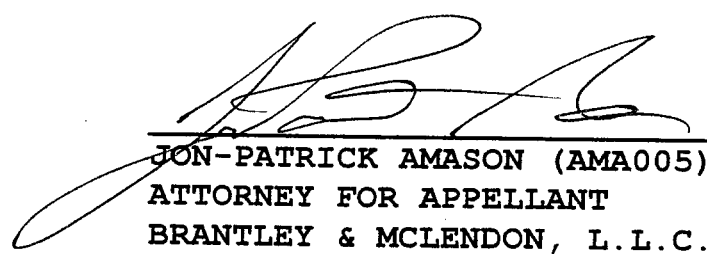
It is clear in the present case that based on the facts a rational fact finder could not find the appellant guilty of Intimidating a Witness. The Court of Criminal Appeals may have misapprehended the interpretation of the law in this case, and may have overlooked the fact that the State failed to prove any of the elements of the offense that the appellant was charged with beyond a reasonable doubt.



WHEREFORE, Petitioner respectfully requests that after a preliminary examination, the writ of certiorari be granted and that this Court proceed under its' rules to review the matters complained of, and to reverse the judgment of the Court of Criminal Appeals, and for such other relief as Petitioner may be entitled.

Respectfully submitted this the 1 day of  2005.


BRANTLEY & MCLENDON, L.L.C.

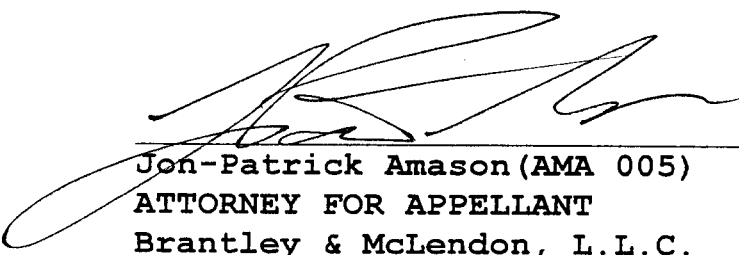


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**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the above and foregoing Petition of Appellant upon the Attorney General for the State of Alabama, Alabama State House, 11 South Union Street, Montgomery, Alabama 36130, and the Alabama Court of Criminal Appeals, 300 Dexter Ave., Montgomery, Alabama, and to the Appellant, Draper Correctional Facility, by placing a copy of same in the U. S. Mail, postage prepaid and properly addressed, on this the 1 day of

 2005.

  
Jon-Patrick Amason (AMA 005)

ATTORNEY FOR APPELLANT

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Dothan, Alabama 36303

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Rec'd 6-13-05

Notice: This unpublished memorandum should not be cited as precedent. See Rule 54, Ala.R.App.P. Rule 54(d), states, in part, that this memorandum "shall have no precedential value and shall not be cited in arguments or briefs and shall not be used by any court within this state, except for the purpose of establishing the application of the doctrine of law of the case, res judicata, collateral estoppel, double jeopardy, or procedural bar."

## Court of Criminal Appeals

State of Alabama  
Judicial Building, 300 Dexter Avenue  
P. O. Box 301555  
Montgomery, AL 36130-1555

RELEASED

JUN 10 2005

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ALA COURT CRIMINAL APPEALS

H.W."BUCKY" McMILLAN  
Presiding Judge  
SUE BELL COBB  
PAMELA W. BASCHAB  
GREG SHAW  
A. KELLI WISE  
Judges

Lane W. Mann  
Clerk  
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### MEMORANDUM

CR-04-0602

Houston Circuit Court CC-03-599

Ralph Wilson Lingo v. State of Alabama

Baschab, Judge.

The appellant was convicted of intimidating a witness, a violation of §13A-10-123(a), Ala. Code 1975. The trial court sentenced him, as a habitual offender, to serve a term of twenty years in prison. See §13A-5-9(a)(1), Ala. Code 1975. The appellant filed motions for a judgment of acquittal and for a new trial, which the trial court summarily denied. This appeal followed.

Debra Tice Blackstone, the victim, testified that the appellant is her ex-husband; that they were married in January 1989 and divorced in January 1997; that the appellant could not read and write very well; that, on April 24, 2003, she signed a warrant against the appellant in the Dothan Municipal



Court for harassing communications based on a telephone call; that she also got a protection from abuse order against the appellant; that, about one week later, she received an unsigned letter, which included copies of photographs of her naked and written threats, from an unidentified delivery man at her home; that the appellant was the only person who had access to the photographs; and that she was overwhelmed, scared, terrified, and afraid to go to court, even though she did later go to court. She also testified that the appellant

"has threatened to burn my house down. He has tried to hire somebody to kill me. He has made the comment to me that the next person that puts him away will die."

(R. 45.)

The State introduced the photographs and the letter into evidence. The letter included the following:

"You brought this on your own self. No one has seen these. You tricked me and you did something very, very wrong. I still have the phone tape. I can ruin you real badly with fraud counts against you with the internal revenue. You love blacks, and cops but you don't think more that 3,000 of these will be placed all over Dothan. Every stop sign, light poles, just think again. Copies are made. You better see me or I will have to start defending myself.

"I do not want any trouble with you. You know the law is on me real bad, trying to get anything on me. You know all about it, but I ain't guilty. I was framed and set up by Sue. I didn't know anything about it until it was all over with. I told the internal Revenue a little about you, but not enough to get you in any trouble. I would never do that unless I was forced to.

"4 out of 20 pictures

"You know I can hurt you by a lot of people you

ran off from my [business], that you have cussed out. I know at least three of those people want to sign warrants on you right now. I know why you did all of this is because of you lover, so here's the way it will go. You can keep your black lovers, your cop lovers. I haven't done anything but help you and giving you money. Yes I was trying to fight to keep you, and to make sure you had plenty of money every week. That was what I wanted to do to keep you, to make sure you had your medication, money, and whatever your kid needed. I will never call you again. I will never contact you again. You drop your phony warrant or you will be sued at the right time and be arrested with [warrants] against you. I will push the internal revenue to step in to investigate you. [A]lso GE to investigate you also. I will do whatever it takes to ruin you, destroy you, your name. You have lied on me, and tricked me with a phone call, and there's some stuff on you I won't mention. If you don't want to go down you better back off from me. I will be going to have a meeting with my investigators and I will put them on the case. I kept you out of these trials like you asked me, but you [will] be in 3 in the near future, under oath. These phone tapes will prove you deal with a lot of customers. You want me to nail you but you remember the fox. You know what this means. I am leaving and going to the beach this weekend. I will have my cell phone with me. I don't want to talk or see anyone but you face to face, to talk out our differences. You know my number. I am very depressed. I have cried a million tears over you.

"I am not threatening you in no way. I am making you a promise. You have 24 hours to see me face to face. And we will start to work to defending myself against accusations which aren't true. Debra this will be up to you. You know my cell number. If you want to meet me to work this thing out, then I'd be more than willing [to] show you I'm not joking with you. Three of your family members will get a copy of a videotape and a copy of

these pictures along with copies of phone tapes, this weekend. I have not got any of this in my possession. All it would take is a phone call and it will be delivered. You have 24 hours for these to start [coming] out on you. You want to go to the law, fine. We will also tell the law a lot of shit too, and it won't stop there. I know you have these judges on your side, but you just don't know what I know. I don't want any problems out of you. It's your money and your life. Do you want it destroyed or a person to person talk to work all of this out. I might not word this letter right, but one of your friends knows how to contact me. This will be up to you. I will have to do what I have to do. Thank you very much. We can work this out and go our [separate] ways.

"Take this the way you want to take this. It's your choice.

"Thank you.

"1-4 pages - you have copies of your pictures. Do what you want to do."

(C.R. 224-26.)

Alicia Roberts testified that she worked for the appellant; that she wrote the above-referenced letter, using the appellant's words, at the appellant's request; and that she helped the appellant copy the photographs.

Finally, the appellant made a statement to Ed Sasser, an investigator for the Alabama Department of Corrections, in which he admitted that he had sent someone to the victim's house with a photograph of her naked. He contended that the person did not know what was in the package, but that the victim did.

I.

The appellant argues that the trial court erroneously

refused to instruct the jury on criminal coercion<sup>1</sup> and tampering with a witness.<sup>2</sup>

"No party may assign as error the court's ... failing to give [an] instruction ... unless the party objects thereto before the jury retires to consider its verdict, stating the matter to which he or she objects and the grounds of the objection."

Rule 21.3, Ala. R. Crim. P. After the trial court's oral charge, the appellant made a general objection to the fact that the trial court had not instructed the jury on criminal coercion and tampering with a witness, but he did not state any grounds in support of the objection. Therefore, he did not properly preserve this argument for our review. See Rule

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<sup>1</sup>Section 13A-6-25(a), Ala. Code 1975, provides, in pertinent part:

"A person commits the crime of criminal coercion if, without legal authority, he threatens to confine, restrain or to cause physical injury to the threatened person or another, or to damage the property or reputation of the threatened person or another with intent thereby to induce the threatened person or another against his will to do an unlawful act or refrain from doing a lawful act."

<sup>2</sup>Section 13A-10-124, Ala. Code 1975, provides, in pertinent part:

"(a) A person commits the crime of tampering with a witness if he attempts to induce a witness or a person he believes will be called as a witness in any official proceeding to:

"(1) Testify falsely or unlawfully withhold testimony; or

"(2) Absent himself from any official proceeding to which he has been legally summoned."

21.3, Ala. R. Crim. P.; Bullock v. State, 697 So. 2d 66 (Ala. Crim. App. 1997).

Moreover, in response to the appellant's objection, the trial court stated:

"I just don't believe that -- a lesser included offense is an offense that is lesser -- less than all of the other -- of the main charge as I understand it of the law of Alabama. And the way I see it under the testimony that was given, and the testimony was pretty much undisputed, that it -- that this has got to be either intimidating a witness or nothing. It's one or nothing is the way I see it. As a matter of fact, I think if I gave a charge on those offenses as lesser included offenses and he were convicted on one of them, that it would be reversible error."

(R. 95-96.)

"No error occurs in not giving a charge on a lesser included offense when there is no reasonable theory to support the lesser offense. See Dill. "A trial judge may refuse to charge on a lesser included offense when it is clear to the judicial mind that there is no evidence to support the jury's being charged on the lesser included offense." Dill, 600 So. 2d at 360, quoting Gurganus v. State, 520 So. 2d 170, 174 (Ala. Cr. App. 1987)."

Williams v. State, 601 So. 2d 1062, 1075 (Ala. Crim. App. 1991), aff'd, 662 So. 2d 929 (Ala. 1992) (table).

The record supports the trial court's finding that jury instructions on criminal coercion and tampering with a witness were not warranted. Under the facts of this case, the appellant was either guilty of intimidating a witness or not guilty of anything. Therefore, the appellant's argument is without merit.

II.



The appellant also argues that the State did not present sufficient evidence to support his conviction.

"(a) A person commits the crime of intimidating a witness if he attempts, by use of a threat directed to a witness or a person he believes will be called as a witness in any official proceedings, to:

"(1) Corruptly influence the testimony of that person;

"(2) Induce that person to avoid legal process summoning him to testify; or

"(3) Induce that person to absent himself from an official proceeding to which he has been legally summoned.

"(b) 'Threat,' as used in this section, means any threat proscribed by Section 13A-6-25 on criminal coercion."

§13A-10-123, Ala. Code 1975.

"In deciding whether there is sufficient evidence to support the verdict of the jury and the judgment of the trial court, the evidence must be reviewed in the light most favorable to the prosecution. Cumbo v. State, 368 So. 2d 871 (Ala. Cr. App. 1978), cert. denied, 368 So. 2d 877 (Ala. 1979). Conflicting evidence presents a jury question not subject to review on appeal, provided the state's evidence establishes a prima facie case. Gunn v. State, 387 So. 2d 280 (Ala. Cr. App.), cert. denied, 387 So. 2d 283 (Ala. 1980). The trial court's denial of a motion for a judgment of acquittal must be reviewed by determining whether there existed legal evidence before the jury, at the time the motion was made, from which the jury by fair inference could have found the appellant guilty. Thomas v. State, 363 So. 2d 1020 (Ala. Cr. App. 1978). In applying this standard, the

appellate court will determine only if legal evidence was presented from which the jury could have found the defendant guilty beyond a reasonable doubt. Willis v. State, 447 So. 2d 199 (Ala. Cr. App. 1983); Thomas v. State. When the evidence raises questions of fact for the jury and such evidence, if believed, is sufficient to sustain a conviction, the denial of a motion for a judgment of acquittal by the trial court does not constitute error. Young v. State, 283 Ala. 676, 220 So. 2d 843 (1969); Willis v. State."

Breckenridge v. State, 628 So. 2d 1012, 1018 (Ala. Crim. App. 1993).

"'In determining the sufficiency of the evidence to sustain the conviction, this Court must accept as true the evidence introduced by the State, accord the State all legitimate inferences therefrom, and consider the evidence in the light most favorable to the prosecution.' Faircloth v. State, 471 So. 2d 485, 489 (Ala. Cr. App. 1984), affirmed, Ex parte Faircloth, [471] So. 2d 493 (Ala. 1985).

"'...

"'The role of appellate courts is not to say what the facts are. Our role, ... is to judge whether the evidence is legally sufficient to allow submission of an issue for decision to the jury." Ex parte Bankston, 358 So. 2d 1040, 1042 (Ala. 1978). An appellate court may interfere with the jury's verdict only where it reaches "a clear conclusion that the finding and judgment are wrong." Kelly v. State, 273 Ala. 240, 244, 139 So. 2d 326 (1962). ... A verdict on conflicting evidence is conclusive on appeal. Roberson v. State, 162 Ala. 30, 50 So. 345 (1909). "[W]here there is ample evidence offered by the state to support a verdict, it should not be overturned even though the evidence

offered by the defendant is in sharp conflict therewith and presents a substantial defense." Fuller v. State, 269 Ala. 312, 333, 113 So. 2d 153 (1959), cert. denied, Fuller v. Alabama, 361 U.S. 936, 80 S. Ct. 380, 4 L. Ed. 2d 358 (1960). ' Granger [v. State], 473 So. 2d [1137,] 1139 [(Ala. Crim. App. 1985)].

"... 'Circumstantial evidence alone is enough to support a guilty verdict of the most heinous crime, provided the jury believes beyond a reasonable doubt that the accused is guilty.' White v. State, 294 Ala. 265, 272, 314 So. 2d 857, cert. denied, 423 U.S. 951, 96 S. Ct. 373, 46 L. Ed. 2d 288 (1975). 'Circumstantial evidence is in nowise considered inferior evidence and is entitled to the same weight as direct evidence provided it points to the guilt of the accused.' Cochran v. State, 500 So. 2d 1161, 1177 (Ala. Cr. App. 1984), affirmed in pertinent part, reversed in part on other grounds, Ex parte Cochran, 500 So. 2d 1179 (Ala. 1985)."

White v. State, 546 So. 2d 1014, 1017 (Ala. Crim. App. 1989).  
Also,

" '[c]ircumstantial evidence is not inferior evidence, and it will be given the same weight as direct evidence, if it, along with the other evidence, is susceptible of a reasonable inference pointing unequivocally to the defendant's guilt. Ward v. State, 557 So. 2d 848 (Ala. Cr. App. 1990). In reviewing a conviction based in whole or in part on circumstantial evidence, the test to be applied is whether the jury might reasonably find that the evidence excluded every reasonable hypothesis except that of guilt; not whether such evidence excludes every reasonable hypothesis but guilt, but whether a jury might reasonably so conclude. Cumbo v. State, 368 So. 2d 871

(Ala. Cr. App. 1978), cert. denied, 368 So. 2d 877 (Ala. 1979).'

"Ward, 610 So. 2d at 1191-92."

Lockhart v. State, 715 So. 2d 895, 899 (Ala. Crim. App. 1997).

Based on the evidence presented, the jury could have reasonably concluded that the appellant was guilty of intimidating a witness. Therefore, the appellant's argument is without merit.

### III.

Finally, the appellant argues that his counsel rendered ineffective assistance during the trial proceedings. In his unverified motion for a new trial, he listed several instances in which he contended that his counsel rendered ineffective assistance. We have reviewed the record and the appellant's ineffective-assistance claims. Although he has made several allegations, he has not satisfied his burden, under Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984), of proving that counsel's performance was deficient and that such allegedly deficient performance prejudiced him. In fact, we note that many of the appellant's claims appear to relate to other judicial proceedings in which he is involved rather than to this proceeding. Furthermore, the record on appeal does not show that his trial counsel's performance was so deficient that it fell below an objective standard of reasonableness. See Ex parte Jefferson, 749 So. 2d 406 (Ala. 1999). Accordingly, the appellant is not entitled to relief on his ineffective-assistance-of-counsel claims.

For the above-stated reasons, we affirm the trial court's judgment.

AFFIRMED.

McMillan, P.J., and Cobb, Shaw, and Wise, JJ., concur.

**COURT OF CRIMINAL APPEALS  
STATE OF ALABAMA**

Lane W. Mann  
Clerk  
Sonja McKnight  
Assistant Clerk



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June 24, 2005

**CR-04-0602**

Ralph Wilson Lingo v. State of Alabama (Appeal from Houston Circuit Court: CC03-599)

**NOTICE**

You are hereby notified that on June 24, 2005 the following action was taken in the above referenced cause by the Court of Criminal Appeals:

Application for Rehearing Overruled.

**Lane W. Mann, Clerk  
Court of Criminal Appeals**

cc: Hon. Judy Byrd, Circuit Clerk  
Jon-Patrick Amason, Attorney  
Robin Blevins Scales, Asst. Atty. Gen.

